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FEDERAL REGISTER

Vol. 81 Monday,
No. 118 June 20, 2016

Pages 39867–40148

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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How To Cite This Publication: Use the volume number and the page number. Example: 81 FR 12345.

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Presidential Documents

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The President

Proclamation 9462 of June 15, 2016

World Elder Abuse Awareness Day, 2016

By the President of the United States of America

A Proclamation

Too often, elder abuse, neglect, and exploitation threaten the livelihoods of older individuals and erode their extraordinary potential. One in ten seniors in America experiences mistreatment or abuse—including domestic and sexual violence—and because these incidents are vastly underreported, only a limited number of victims are able to get the help they need. Today, we join our international partners in renewing our commitment to combat and raise awareness of elder abuse, and in striving to ensure security and dignity for all seniors.

Worldwide, millions of people—predominantly women—experience different forms of elder abuse, including physical, emotional, and sexual abuse. Theft, fraud, and other types of financial exploitation also affect seniors across socioeconomic lines, and neglect and abandonment can cause great harm to vulnerable older individuals. My Administration is dedicated to addressing this serious problem by providing care to survivors of abuse, transforming our Nation's criminal justice systems to better understand elder abuse as a criminal issue, and increasing public awareness of warning signs and prevention strategies. Additionally, because the majority of elder abuse victims are women, we are working to support women domestically and abroad and to combat gender-based violence around the world.

One of the best measures of a country is how it treats its older citizens. My Administration is devoted to strengthening Medicare, Medicaid, the Older Americans Act, and Social Security. Together, these programs have significantly reduced the rate of seniors living in poverty, helped older Americans access health care and quality care services, and allowed older Americans to remain independent as they age. The Elder Justice Act, enacted as part of the Affordable Care Act, took new steps to address elder abuse, neglect, and exploitation and established an Elder Justice Coordinating Council through which Federal agencies are working together to address elder abuse and neglect. And our commitment to supporting survivors of all ages is reflected in the Violence Against Women Act, which dedicates Federal funds to victim service providers, law enforcement, and prosecutors working to respond to domestic and sexual violence experienced by older adults.

Last year, I was proud to host the White House Conference on Aging to identify ways we can improve the quality of life for older Americans and enable them to live in retirement with dignity. Held once a decade, this conference brought together older Americans, their families, caregivers, and advocates to focus on key issue areas, including the importance of elder justice. In addition to taking new steps to expand protections against financial exploitation, assist victims of crimes, and review the science of understanding and preventing abuse through better screening tools, we have built on many of the Federal efforts already underway and are working to support aging Americans for decades to come.

On World Elder Abuse Awareness Day, let us resolve to give all people the tools and support they need to live out their golden years in peace and security. Let us fight cruelty against seniors wherever it exists, and together, let us stamp out all forms of elder abuse—here at home and across the globe.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim June 15, 2016, as World Elder Abuse Awareness Day. I call upon all Americans to observe this day by learning the signs of elder abuse, neglect, and exploitation, and by raising awareness about this important public health issue.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of June, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2016–14638
Filed 6–17–16; 8:45 am]
Billing code 3295–F6–P

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 250 and 251

[FNS–2014–0040]

RIN 0584–AE29

Requirements for the Distribution and Control of Donated Foods and The Emergency Food Assistance Program: Implementation of the Agricultural Act of 2014

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final rule published in the **Federal Register** on April 19, 2016, "Requirements for the Distribution and Control of Donated Foods—The Emergency Food Assistance Program: Implementation of the Agricultural Act of 2014."

DATES: This document is effective June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Carolyn Smalkowski, Program Analyst, Policy Branch, Food Distribution Division, Food and Nutrition Service, 3101 Park Center Drive, Room 500, Alexandria, Virginia 22302, or by telephone (703) 305–2680.

SUPPLEMENTARY INFORMATION: The Food and Nutrition Service published a final rule in the **Federal Register**, 81 FR 23086, on April 19, 2016, to amend Food Distribution regulations at 7 CFR part 250 and 7 CFR part 251 to revise and clarify requirements to ensure that USDA donated foods are distributed, stored, and managed in the safest, most efficient, and cost-effective manner, at State and recipient agency levels. The final rule misstated the title of the rule and misspelled the word "Territories" in the title of 7 CFR part 250 of the regulatory text. This final rule correction resolves these errors by providing the correct title and regulatory text for 7 CFR part 250. This final rule correction also makes a technical correction in 7 CFR 250.30(c)(1)(vi) by removing parts (A) and (B) and combining these sections to ensure readers clearly understand the requirements for processing contracts set forth in this section. All other information in the final rule remains unchanged.

Corrections

■ 1. In the final rule title:

■ a. On page 23086, in the first column, revise the final rule subject heading.

The revision reads as follows:

Requirements for the Distribution and Control of Donated Foods and The Emergency Food Assistance Program: Implementation of the Agricultural Act of 2014

■ 2. In 7 CFR part 250, on page 23100, in the second column, revise the part heading to read as follows:

PART 250—DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

■ 3. In § 250.30:

■ a. On page 23110, in the second and third columns, remove (c)(1)(vi)(A) and (B).

■ b. On page 23110, in the second column, add a new instruction d1 to read as follows:

■ "d1. Redesignate paragraphs (c)(2) through (c)(4) as (c)(3) through (c)(5)."

■ c. On page 23110, in the second column, add a new instruction d2 to read as follows:

■ "d2. In paragraph (c)(1), remove the words "(c)(3), (c)(4)(ii), and (c)(4)(viii)(B)" and add in their place "(c)(4), (c)(5)(ii), and (c)(5)(viii)(B)." "

■ d. On page 23110, in the second column, add a new instruction d3 to read as follows:

■ "d3. In paragraph (c)(1), remove the words "(c)(4)(xi)" and add in their place "(c)(5)(xi)." "

■ e. On page 23110, in the second column, revise instructions 4e, 4f, and 4g to read as follows:

■ "e. Amend newly redesignated paragraphs (c)(5)(iii) and (f)(1) by removing the reference "§ 250.3" and adding in its place the reference "§ 250.2".

■ f. Revise newly redesignated paragraphs (c)(5)(viii)(G) and (c)(4)(xi).

■ g. Remove newly redesignated paragraph (c)(5)(xiv) and redesignate newly redesignated paragraphs (c)(5)(xv) through (xviii) as paragraphs (c)(5)(xiv) through (xvii)."

■ f. On page 23110, in the third column, add new paragraph (c)(2).

■ g. On page 23110, in the second column, add a new instruction d4 to read as follows:

■ "d4. In newly redesignated paragraph (c)(5)(ii), remove the words "(c)(4)(iii)" and add in their place "(c)(5)(iii)."

The addition reads as follows:

§ 250.30 State processing of donated foods.

* * * * *

(c) * * *

(2) These criteria will be reviewed by the appropriate FNS Regional Office during the management evaluation review of the distributing agency. Distributing agencies and subdistributing agencies which enter into contracts on behalf of recipient agencies but which do not limit the types of end products which can be sold or the number of processors which can sell end products within the State are not required to follow the selection criteria. In addition to utilizing these selection criteria, when a contracting agency enters into a contract both for the processing of donated food and the purchase of the end products produced from the donated food, the procurement standards set forth in 2 CFR part 200, subpart D and Appendix II, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards and USDA implementing regulations at 2 CFR part 400 and Part 416 must be followed. Recipient agencies which purchase end products produced under Statewide agreements are also required to comply with 2 CFR part 200, subpart D and USDA implementing regulations at 2 CFR part 400 and Part 416. Contracting agencies shall not enter into contracts with processors which cannot demonstrate the ability to meet the terms and conditions of the regulations and the distributing agency agreements; furnish prior to the delivery of any donated foods for processing, a performance bond, an irrevocable letter of credit or an escrow account in an amount sufficient to protect the contract value of donated food on hand and on order; demonstrate the ability to

distribute end products to eligible recipient agencies; provide a satisfactory record of integrity, business ethics and performance and provide adequate storage.

* * * * *

Dated: June 15, 2016.

Telora T. Dean,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2016–14498 Filed 6–17–16; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2016–0458]

RIN 1625–AA08

Regattas and Marine Parades; Great Lakes Annual Marine Events

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce various special local regulations for annual regattas and marine parades in the Captain of the Port Detroit zone from June 25, 2016 through September 24, 2016. Enforcement of these regulations is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after these regattas or marine parades. During the aforementioned period, the Coast Guard will enforce restrictions upon, and control movement of, vessels in a specified area immediately prior to, during, and immediately after regattas or marine parades.

DATES: The regulations in 33 CFR 100.914, 100.915, 100.919, and 100.928 will be enforced at specified dates and times between June 25, 2016 and September 24, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email Petty Officer Todd Manow, Prevention Department, U.S. Coast Guard Sector Detroit, 110 Mount Elliot Ave., Detroit MI 48207; telephone (313)568–9580, email *Todd.M.Manow@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the following special local regulations listed in 33 CFR part 100, Safety of Life on Navigable Waters, on the following dates and times, which are listed in chronological order:

(1) *§ 100.919 International Bay City River Roar, Bay City, MI.*

This special local regulation will be enforced from 9 a.m. to 6 p.m. on June 25 and 26, 2016. A regulated area is established to include all waters of the Saginaw River bounded on the north by the Liberty Bridge, located at 43°36.3′ N., 083°53.4′ W., and bounded on the south by the Veterans Memorial Bridge, located at 43°35.8′ N., 083°53.6′ W. In case of rain on any of the race days, this special local regulation may be enforced an additional day on June 27, 2016 from 9 a.m. until 6 p.m.

(2) *§ 100.914 Trenton Rotary Roar on the River, Trenton, MI.*

This special local regulation will be enforced from 8 a.m. to 8 p.m. on July 15, 16, and 17, 2016. The regulated area is established to include all waters of the Detroit River, Trenton, Michigan, bounded by an east/west line beginning at a point of land at the northern end of Elizabeth Park in Trenton, MI, located at position 42°8.2′ N.; 083°10.6′ W., extending east to a point near the center of the Trenton Channel located at position 42°8.2′ N.; 083°10.4′ W., extending south along a north/south line to a point at the Grosse Ile Parkway Bridge located at position 42°7.7′ N.; 083°10.5′ W., extending west along a line bordering the Grosse Ile Parkway Bridge to a point on land located at position 42°7.7′ N.; 083°10.7′ W., and along the shoreline to the point of origin. This area is in the Trenton Channel between Trenton and Grosse Isle, MI.

(3) *§ 100.915 St. Clair River Classic Offshore Race, St. Clair, MI.*

This special local regulation will be enforced from 10 a.m. to 7 p.m. each day from July 25, 2015 through July 31, 2015. A regulated area is established to include all waters of the St. Clair River, St. Clair, Michigan, bounded by latitude 42°52′00″ N. to the north; latitude 42°49′00″ N. to the south; the shoreline of the St. Clair River on the west; and the international boundary line on the east.

(4) *§ 100.928 Frogtown Race Regatta, Toledo, OH.*

The special local regulation will be enforced from 5 a.m. to 7 p.m. on September 24, 2016. This special local regulation will encompass all navigable waters of the United States on the Maumee River, Toledo, OH, from the Norfolk and Southern Railway Bridge at River Mile 1.80 to the Anthony Wayne Bridge at River Mile 5.16.

Special Local Regulations

In accordance with § 100.901, entry into, transiting, or anchoring within these regulated areas is prohibited unless authorized by the Coast Guard patrol commander (PATCOM). The PATCOM may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

Vessels permitted to enter this regulated area must operate at a no-wake speed and in a manner that will not endanger race participants or any other craft.

The PATCOM may direct the anchoring, mooring, or movement of any vessel within this regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the PATCOM shall serve as a signal to stop. Vessels so signaled shall stop and shall comply with the orders of the PATCOM. Failure to do so may result in expulsion from the area, a Notice of Violation for failure to comply, or both.

If it is deemed necessary for the protection of life and property, the PATCOM may terminate at any time the marine event or the operation of any vessel within the regulated area.

In accordance with the general regulations in § 100.35 of this part, the Coast Guard will patrol the regatta area under the direction of a designated Coast Guard Patrol Commander (PATCOM). The PATCOM may be contacted on Channel 16 (156.8 MHz) by the call sign "Coast Guard Patrol Commander."

Under the provisions of 33 CFR 100.928, vessels transiting within the regulated area shall travel at a no-wake speed and remain vigilant for event participants and safety craft. Additionally, vessels shall yield right-of-way for event participants and event safety craft and shall follow directions given by the Coast Guard's on-scene representative or by event representatives during the event.

The "on-scene representative" of the Captain of the Port Detroit is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Detroit to act on his behalf. The on-scene representative of the Captain of the Port Detroit will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port, Sector Detroit or his designated on scene representative may be contacted via VHF Channel 16.

The rules in this section shall not apply to vessels participating in the event or to government vessels patrolling the regulated area in the performance of their assigned duties.

This document is issued under authority of 33 CFR 100.35 and 5 U.S.C. 552(a). If the Captain of the Port determines that any of these special local regulations need not be enforced for the full duration stated in this document, he may suspend such enforcement and notify the public of the suspension via a Broadcast Notice to Mariners.

Dated: June 14, 2016.

Scott B. Lemasters,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2016–14483 Filed 6–17–16; 8:45 am]

BILLING CODE 9110–04–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1817 and 1852

RIN 2700–AE28

Removal of Outdated and Duplicative Guidance (2016–N010)

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: National Aeronautics and Space Administration (NASA) is issuing a final rule amending the NASA FAR Supplement (NFS) to remove duplicative language of the FAR and superseded NFS guidance. The revision is part of NASA's retrospective plan under Executive Order (E.O.) 13563 completed in August 2011.

DATES: *Effective:* July 20, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Manuel Quinones, telephone (202) 358–2143.

SUPPLEMENTARY INFORMATION:

I. Background

NASA published a proposed rule in the **Federal Register** at 81 FR 17124 on March 28, 2016, to remove duplicative language of the FAR and superseded NFS guidance. This rule removes from the Code of Federal Regulations (CFR) those portions of the NFS containing information that consists of internal Agency administrative procedures and guidance that does not control the relationship between NASA and contractors or prospective contractors. Additionally, NASA identified a number of NFS parts and sections to be (1) deleted because of its duplication of the FAR or (2) relocated as internal Agency operating procedures to a NASA maintained Web site available on the internet at *http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm.* No public comments were received in response to the proposed rule.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule removes from the CFR only information that is either considered internal Agency administrative procedures or extraneous provisions or clauses that were invalidated by previous final rules.

IV. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 1817 and 1852

Government procurement.

Manuel Quinones,

NASA FAR Supplement Manager.

Accordingly, 48 CFR parts 1817 and 1852 are amended as follows:

■ 1. The authority citation for parts 1817 and 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

PART 1817—SPECIAL CONTRACTING METHODS

1817.200 and 1817.204 [Removed]

■ 2. Remove sections 1817.200 and 1817.204.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.210–70, 1852.212–70, and 1852.212–74 [Removed]

■ 3. Remove sections 1852.210–70, 1852.212–70, and 1852.212–74.

[FR Doc. 2016–14460 Filed 6–17–16; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151211999–6343–02]

RIN 0648–XE683

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Trimester Total Allowable Catch Area Closure for the Common Pool Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; area closure.

SUMMARY: This action closes the Cape Cod/Gulf of Maine yellowtail flounder Trimester Total Allowable Catch Area to Northeast multispecies common pool vessels fishing with gillnet and trawl gear for the remainder of Trimester 1, through August 31, 2016. The closure is required by regulation because the common pool fishery has caught 90 percent of its Trimester 1 quota for Cape Cod/Gulf of Maine yellowtail flounder. This closure is intended to prevent an overage of the common pool's quota for this stock.

DATES: This action is effective June 15, 2016, through August 31, 2016.

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, (978) 281–9195.

SUPPLEMENTARY INFORMATION: Federal regulations at § 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies to all common pool vessels fishing with gear capable of catching that stock for the remainder of the trimester.

As of June 7, 2016, the common pool fishery caught approximately 75 percent of the Trimester 1 TAC (5.5 mt) for Cape Cod/Gulf of Maine (CC/GOM) yellowtail flounder. We project that 90 percent of the Trimester 1 TAC will be caught by June 11, 2016. The fishing year 2016 common pool sub-annual catch limit (sub-ACL) for CC/GOM yellowtail flounder is 14.5 mt.

Effective June 15, 2016, the CC/GOM yellowtail flounder Trimester TAC Area is closed for the remainder of Trimester 1, through August 31, 2016, to all common pool vessels on a Northeast multispecies day-at-sea fishing with gillnet and trawl gear. The CC/GOM yellowtail flounder Trimester TAC Area consists of statistical areas 514 and 521. The area reopens at the beginning of Trimester 2 on September 1, 2016.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to June 15, 2016, it may complete its trip within the Trimester TAC Area.

Any overage of the Trimester 1 or 2 TACs must be deducted from the Trimester 3 TAC. If the common pool fishery exceeds its sub-ACL for the 2016 fishing year, the overage must be deducted from the common pool's sub-ACL for fishing year 2017. Any uncaught portion of the Trimester 1 and Trimester 2 TACs is carried over into the next trimester. However, any uncaught portion of the common pool's sub-ACL may not be carried over into the following fishing year.

Weekly quota monitoring reports for the common pool fishery are on our Web site at: *http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm.* We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information, and, if necessary, we will make additional adjustments to common pool management measures.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

The regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information only recently became available indicating that the common pool fishery has caught 90 percent of its Trimester 1 TAC for CC/GOM yellowtail flounder as of June 11, 2016. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, prevents the immediate closure of the CC/GOM yellowtail flounder Trimester 1 TAC Area. This increases the likelihood that the common pool fishery exceeds its quota of CC/GOM yellowtail flounder to the detriment of this stock, which could undermine management objectives of the Northeast Multispecies Fishery Management Plan. Additionally, an overage of the common pool quota could cause negative economic impacts to the common pool fishery as a result of overage paybacks in a future trimester or fishing year.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 14, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–14464 Filed 6–15–16; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 118
Monday, June 20, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

[Docket No. 140929814–4814–01]

RIN 0625–AB02

Correction to Applicability Date for Modification of Regulations Regarding Price Adjustments in Antidumping Duty Proceedings

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

ACTION: Proposed rule.

SUMMARY: The Department of Commerce (the Department) proposes to modify the applicability date contained in the final rule published in the **Federal Register** on March 24, 2016, *Modification of Regulations Regarding Price Adjustments in Antidumping Duty Proceedings,* 81 FR 15641, and is seeking comments from parties. The original applicability date language did not convey the Department's intention, *i.e.,* to apply the newly amended regulation to all segments of proceedings initiated on or after the effective date contained in the **Federal Register** notice. This action is necessary to ensure that there is no ambiguity in the application of the modified regulations.

DATES: To be assured of consideration, written comments must be received no later than July 5, 2016.

ADDRESSES: All comments must be submitted through the Federal eRulemaking Portal at *http://www.regulations.gov,* Docket No. ITA–2016–003, unless the commenter does not have access to the internet. Commenters that do not have access to the internet may submit the original and one electronic copy on CD–ROM of each set of comments by mail or hand delivery/courier. All comments should be addressed to Paul Piquado, Assistant Secretary for Enforcement & Compliance, Room 18022, Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230. Comments submitted directly to the Department will be uploaded to the eRulemaking Portal at *www.Regulations.gov.*

The Department will consider all comments received before the close of the comment period. All comments responding to this notice will be a matter of public record and will be available on the Federal eRulemaking Portal at *www.Regulations.gov.* The Department will not accept comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason.

Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Moustapha Sylla, Enforcement and Compliance Webmaster, at (202) 482–4685, email address: *webmaster-support@ita.doc.gov.*

FOR FURTHER INFORMATION CONTACT: Jessica Link at (202) 482–1411.

SUPPLEMENTARY INFORMATION: On March 24, 2016, the Department published a final rule in the **Federal Register** modifying 19 CFR 351.102(b)(38) and 19 CFR 351.401(c). *Modification of Regulations Regarding Price Adjustments in Antidumping Duty Proceedings,* 81 FR 15641 (March 24, 2016) (Final Rule). The Dates section of the Final Rule states: "*Effective date:* April 25, 2016. *Applicability date:* This rule will apply to all proceedings initiated on or after April 25, 2016."

The applicability date does not convey the Department's intention, *i.e.,* to apply the newly amended regulations to all segments of proceedings initiated on or after the effective date of the Final Rule. Although "proceedings" can be interpreted generally to include any segment of an administrative case before Enforcement and Compliance that is initiated on or after the effective date, "proceeding" and "segment of proceeding" are defined separately in 19 CFR 351.102(b)(40) and 19 CFR 351.102(b)(47), respectively. To avoid any ambiguity and to clarify the Department's intent, the applicability date is being modified such that the Final Rule will apply to segments of proceedings initiated on or after 30 days following the publication date of the final rule that results from this rulemaking. As the prior applicability date was not included in the modified regulations, 19 CFR 351.102(b)(38) and 19 CFR 351.401(c), the Department is not proposing to amend its regulations. The only change to the Final Rule being addressed in this proposed rule and request for comment is a change to the applicability date of the Final Rule. In addition, because the Department is merely clarifying its intent with respect to the applicability date of the Final Rule, and is not altering the substance of the Final Rule in any way, we are providing parties with 15 days to comment on this proposed rule.

Although one commenter commented on the effective date of the Final Rule, that comment related to which entries would be subject to the Final Rule. We disagreed with the commenter that it would be unfair to apply the rule to entries made prior to the effective date of the Final Rule. 81 FR at 15645. We addressed the entry comment but inadvertently failed to ensure that the applicability date read "segments of proceedings" rather than "proceedings" in the Final Rule.

Classification

Executive Order 12866

It has been determined that this proposed rule is not significant for purposes of Executive Order 12866.

Paperwork Reduction Act

This proposed rule contains no new collection of information subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Executive Order 13132

This proposed rule does not contain policies with federalism implications as that term is defined in section 1(a) of Executive Order 13132, dated August 4, 1999 (64 FR 43255 (August 10, 1999)).

Regulatory Flexibility Act

The Chief Counsel for Regulation has certified to the Chief Counsel for Advocacy of the Small Business Administration under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small business entities. This proposed rule merely corrects the applicability date of the Final Rule, *Modification of Regulations Regarding Price Adjustments in Antidumping Duty Proceedings,* 81 FR 15641 (March 24, 2016), which entailed a substantive change in the Department's regulations, and for which it was determined that there would be no significant economic impact on a substantial number of small entities. As a result, this proposed correction of the applicability date of the Final Rule similarly would not have a significant economic impact on a substantial number of small entities. For this reason, an Initial Regulatory Flexibility Analysis is not required and one has not been prepared.

Dated: June 13, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–14427 Filed 6–17–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 15

43 CFR Part 30

[167A2100DD/AAKC001030/A0A501010.999900 253G]

Probate Regulation Updates

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Tribal consultation.

SUMMARY: The Department of the Interior ("Department") plans to conduct two Tribal consultation sessions with federally recognized Tribes across the country. These meetings will provide a forum for Tribes to share insights and make recommendations related to the probate of Indian estates.

DATES: Written comments must be received by August 1, 2016. Please see the **SUPPLEMENTARY INFORMATION** section of this notice for dates of Tribal consultation sessions.

ADDRESSES: You may submit comments by one of the following methods:

- *Email: consultation@bia.gov.*
- *By hard copy:* Submit by U.S. mail or hand delivery to: Ms. Elizabeth Appel, Office of Regulatory Affairs and Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., MS–3071–MIB, Washington, DC 20240.

Please see the **SUPPLEMENTARY INFORMATION** section of this notice for information on the Tribal consultation sessions.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs; telephone (202) 273–4680, *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION:

Tribal Consultation Sessions

The Department will be hosting two Tribal consultation sessions by teleconference. Tribes were notified of these consultation sessions by letter on June 8, 2016. The sessions are:

Date	Time (eastern time)	Location
Tuesday, July 12, 2016	2:00 p.m.–4:00 p.m	Call-in Number: (800) 857–7479 Passcode: 6543434
Wednesday, July 13, 2016	2:00 p.m.–4:00 p.m	Call-in Number: (800) 857–7479 Passcode: 6543434

The Department will also be hosting a listening session on Monday, June 27, in Spokane, Washington, in conjunction with the National Congress of American Indians mid-year conference. The Department will accept written comments received by the date listed in the **DATES** section of this notice.

As described below, we have identified three areas for modification that will have an immediate impact in streamlining the probate process. We are seeking comments with regard to the following topics, and welcome insight on other aspects of the probate regulatory framework that could be improved.

Probate Revisions Currently Under Consideration

1. Increasing the Monetary Limit for Distribution of IIM Account Funds to Pay for Funeral Services From $1,000 to $5,000

The regulation, at 25 CFR 15.301 currently establishes a monetary limit of $1,000 for distribution of Individual Indian Money (IIM) account funds to pay for funeral expenses. There is an ongoing concern that $1,000 is not sufficient to pay for funeral expenses. While individuals may submit funeral related claims to be paid from estate account funds at any time before the conclusion of the first hearing by the Office of Hearings and Appeals (OHA), the Bureau of Indian Affairs (BIA) is aware that family members sometimes suffer financial hardship and lengthy delays as the estate is finalized and claims are approved.

Revisions under consideration:

- The BIA is considering a modification to this subpart that would increase the amount of funds available to use for funeral expenses. One proposed modification would amend current regulations by increasing the amount an individual my request from the decedent's IIM to no more than $5,000 for funeral expenses. The account must still contain a minimum balance of $2,500 in order to approve an expense under this section.
- In the interests of preserving estate account funds for heirs and other claimants, an alternative option would be to likewise raise the maximum payout to $5,000, *but* with the limitation that the total payments could not exceed 40% of the available account balance.

2. Allowing BIA To Make Minor Estate Inventory Corrections

The current regulation, at 43 CFR 30.126, requires a judge to issue a modification order if trust or restricted property belonging to a decedent is omitted from the inventory of an estate. As a result, it can take significant time to make minor estate inventory corrections to include omitted property.

Revision under consideration:

- The BIA is considering a regulatory modification to grant the BIA the authority to make estate inventory modifications when heirship has already been determined by an OHA order. The BIA would notify all interested parties to an estate in the event property interests were to be added. As in this current regulatory section, any modification that would result in property taking a different line of descent would still require OHA issuing a decision to re-determine heirs. For example, if adding property to a decedent's estate would cause that interest to become 5% or more of the parcel, and thus no longer subject to the American Indian Probate Reform Act's highly fractionated interest provisions, OHA would need to issue a new decision to re-determine descent and distribution of those interests. There would be no change to the requirement that any *removal* of property from a decedent's inventory would require action by OHA. *See* 43 CFR 30.127.

3. Clarify OHA's Authority To Order Distribution of Trust Funds

The current regulation at 43 CFR 30.254 governs how a judge distributes a decedent's trust or restricted property when the decedent died without a valid will and has no heirs. The rule establishes different distributions based on whether 25 U.S.C. 2206(a) applies, but does not identify trust personalty as a stand-alone category of trust property for distribution (where there are no land interests in the decedent's estate or within the jurisdiction of any tribe).

Revision under consideration:

- A modification to this regulation would provide clear authority for OHA to order distribution of trust funds when there are either no land interests in a decedent's estate or no land interests within the jurisdiction of any tribe. Additionally, where the estate contains trust personalty associated with one tribe but interests in trust lands associated with another, OHA would order the trust personalty distributed to the tribe with sufficient nexus to the funds, as determined by the judge, and the land distributed to the tribe with jurisdiction over those interests.

Dated: June 8, 2016.

Lawrence S. Roberts,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2016–14574 Filed 6–17–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 800

[Docket ID: OSM–2016–0006; S1D1S SS08011000 SX064A000 167S180110; S2D2S SS08011000 SX064A000 16XS501520]

Petition To Initiate Rulemaking; Ensuring That Companies With a History of Financial Insolvency, and Their Subsidiary Companies, Are Not Allowed To Self-Bond Coal Mining Operations

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice; extension of comment period.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing a 30-day extension of the comment period on a petition, submitted pursuant to the Surface Mining Control and Reclamation Act, (SMCRA or the Act), requesting that we amend our self-bonding regulations to ensure that companies with a history of financial insolvency, and their subsidiary companies, are not allowed to self-bond coal mining operations. We are requesting comments on the merits of the petition and the rule changes suggested in the petition. Comments received will assist the Director of OSMRE in making the decision whether to grant or deny the petition.

DATES: The comment period for the proposed rule published May 20, 2016 (81 FR 31880) is extended. *Electronic or written comments:* We will accept written comments on the petition that are received on or before July 20, 2016.

ADDRESSES: You may submit comments by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. The petition has been assigned Docket ID: OSM–2016–0006. Please follow the online instructions for submitting comments.

Mail/Hand-Delivery/Courier: Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252 SIB, 1951 Constitution Avenue NW., Washington, DC 20240. Please include the Docket ID: OSM–2016–0006.

FOR FURTHER INFORMATION CONTACT: Michael Kuhns, Division of Regulatory Support, 1951 Constitution Ave. NW., Washington, DC 20240; Telephone: 202–208–2860; Email: *mkuhns@osmre.gov.*

SUPPLEMENTARY INFORMATION: On May 20, 2016, we published a notice seeking comments from the public on the proposed change specified in the petition. 81 FR 31880 (May 20, 2016). Specifically, the petition requests that we amend our self-bonding regulations at 30 CFR 800.23 to ensure that companies with a history of financial insolvency, and their subsidiary companies, are not allowed to self-bond coal mining operations.

The original comment period is scheduled to close on June 20, 2016. However, we received a request that we extend the comment period to allow additional time to review the petition and provide informed comments on a complex issue. After reviewing the request, we are extending the deadline for submission of comments by 30 days in order to ensure that potentially impacted parties have an adequate opportunity to comment. The comment period will now close on July 20, 2016.

The petition and exhibits can be viewed and downloaded at *http://www.regulations.gov.* The petition has been assigned Docket ID: OSM–2016–0006. The petition and exhibits also are available for inspection at the location listed under **ADDRESSES**.

We will review and consider all comments submitted to the addresses listed above (see **ADDRESSES**) by the close of the comment period (see **DATES**).

Please include the Docket ID "OSM–2016–0006" at the beginning of all written comments. We cannot ensure that comments received after the close of the comment period (see **DATES**) or at locations other than those listed above (see **ADDRESSES**) will be included in the docket or considered in the development of a proposed rule.

Before including your address, phone number, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 14, 2016.

Joseph G. Pizarchik,

Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 2016–14525 Filed 6–17–16; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID: ED–2015–OESE–0129; CFDA Number: 84.371C.]

RIN 1810–AB25

Proposed Priorities, Requirements, Definitions, and Selection Criteria—Striving Readers Comprehensive Literacy Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Proposed priorities, requirements, definitions, and selection criteria.

SUMMARY: The Assistant Secretary for the Office of Elementary and Secondary Education (Assistant Secretary) proposes priorities, requirements, definitions, and selection criteria under the Striving Readers Comprehensive Literacy (SRCL) program. These proposed priorities, requirements,

definitions, and selection criteria would replace the priorities, requirements, definitions, and selection criteria in the SRCL notice inviting applications for new awards for Fiscal Year (FY) 2011, published in the **Federal Register** on March 10, 2011 (76 FR 13143). The Assistant Secretary may use these priorities, requirements, definitions, and selection criteria for competitions in FY 2016 and later years. We take this action to address an area of national need by providing competitive grant awards to State educational agencies (SEAs) to advance literacy skills, including pre-literacy skills, reading, and writing, for children from birth through grade 12, including English learners and children with disabilities.

DATES: We must receive your comments on or before July 20, 2016.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "How to use *Regulations.gov.*"
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed regulations, address them to Rosemary Fennell, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E228, Washington, DC 20202–6450.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Rosemary Fennell, (202) 401–2425 or by email: *Rosemary.Fennell@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of this Regulatory Action: The Department plans to make competitive grant awards under the SRCL program to eligible SEAs for the purpose of advancing literacy skills, including pre-literacy skills, reading, and writing, for children from birth through grade 12, with an emphasis on disadvantaged children, including English learners and children with disabilities.

Summary of the Major Provisions of This Regulatory Action: In this notice, we propose to establish priorities, requirements, definitions, and selection criteria that we may require eligible SEAs to address in order to receive funds under the SRCL program. We have made an effort to align these proposed priorities, requirements, definitions, and selection criteria with certain new statutory requirements, which will apply to any future programs, in accordance with the Department's authority to ensure an orderly transition to the ESEA, as amended by the Every Student Succeeds Act (ESSA).

In this notice, we propose three priorities. The first priority would focus on how SEAs will ensure that (a) the comprehensive literacy instruction programs funded under this grant are supported by moderate evidence of effectiveness or strong evidence of effectiveness and (b) local literacy plans are aligned with the State comprehensive literacy plan. Under the second priority, SEAs would be required to have a high-quality plan that describes the methodology that will be used to ensure that local projects serve the greatest numbers or percentages of disadvantaged children. Finally, the third priority would encourage SEAs to prioritize local literacy plans that align pre-literacy strategies for children aged birth through five with pre-literacy and literacy strategies for students from kindergarten through grade five.

We are also proposing requirements intended to ensure that State literacy teams assess the State comprehensive literacy plans on a regular basis and that these plans include continuous improvement activities. We propose a number of definitions that clarify terms used in the SRCL program. We believe that these terms are important to understanding the complexity of the SRCL program as it relates to comprehensive literacy instruction.

We are proposing selection criteria intended to help identify high-quality applications. These selection criteria would assist the Department in determining the extent to which eligible SEAs submitting applications under the SRCL program will: (1) Provide support and technical assistance, based on an assessment of local needs, to SRCL subgrantees to ensure improvement in the literacy and pre-literacy achievement of children from birth to grade 12 and ensure effectiveness in addressing the needs of disadvantaged children; (2) establish an independent peer review process for awarding subgrants to prioritize awards to eligible subgrantees that propose a high-quality comprehensive literacy instruction program and are supported by moderate or strong evidence of effectiveness; (3) monitor subgrantees' implementation of interventions and practices to ensure fidelity to the local plan, as well as alignment between the SEA's State comprehensive literacy plan and local literacy plan; and (4) award subgrants of sufficient size that target the greatest numbers or percentages of disadvantaged children, to fully and effectively implement the local literacy plan.

Costs and Benefits: We have determined that these proposed priorities, requirements, definitions, and selection criteria would not impose significant costs on eligible SEAs. Program participation is voluntary, and the costs imposed on applicants by these proposed priorities, requirements, definitions, and selection criteria would be limited to paperwork burden related to preparing an application. The potential benefits of implementing the programs would outweigh any costs incurred by applicants, and the costs of actually carrying out activities associated with the application would be paid for with program funds. For these reasons, we have determined that the costs of implementation would not be excessively burdensome for eligible applicants, including small entities.

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priorities, requirements, definitions, and selection criteria, we urge you to identify clearly the specific proposed priority, requirement, definition, or selection criterion your comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13536 and their overall requirement of reducing regulatory burden that might result from the proposed priorities, requirements, definitions, and selection criteria. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about the proposed priorities, requirements, definitions, and selection criteria in Room 3E228, 400 Maryland Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the SCRL program is to advance literacy skills, including pre-literacy skills, reading, and writing, for all children from birth through grade 12, with a special emphasis on disadvantaged children, including English learners and children with disabilities. Through this program, the Department awards competitive grants to SEAs to support subgrants to local educational agencies (LEAs) or other eligible subgrantees, including early learning providers.

Program Authority: Section 1502 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (ESEA), and Title III of Division H of the Consolidated Appropriations Act, 2016 (Pub. L. 114–113).

Proposed Priorities

This notice contains three proposed priorities.

Proposed Priority 1—Interventions and Practices Supported by Moderate or Strong Evidence of Effectiveness.

Background: In recent years, the Department has emphasized evidence-based practices in grant competitions.[1] We believe that encouraging applicants to focus on proven comprehensive literacy instruction practices enhances the quality of programs funded through our competitions, improves outcomes for participating children, and generates a better return on investment for taxpayer funds. In the previous SRCL competition conducted in 2011, the Department scored applications on the extent to which SEAs gave priority to eligible subgrantees that submitted applications supported by the strongest available evidence. With this proposed priority, we intend to clarify and expand upon those efforts by further promoting comprehensive literacy instruction, in the local literacy plans submitted by eligible subgrantees, by ensuring that those plans have been carefully and rigorously evaluated and will have positive impacts on literacy outcomes.

Proposed Priority: Under this proposed priority, a State educational agency (SEA) must ensure that evidence plays a central role in the SRCL subgrants. Specifically, in its high-quality plan, an SEA must assure (1) that it will use an independent peer review process to prioritize awards to eligible subgrantees that propose a high-quality comprehensive literacy instruction program, and that meet the conditions set forth in the definition of moderate evidence of effectiveness or strong evidence of effectiveness (as defined in 34 CFR 77.1), where evidence is applicable and available, and (2) that the comprehensive literacy instruction program proposed by eligible subgrantees will align with the State's comprehensive literacy plan as well as local needs.

Proposed Priority 2—Serving Disadvantaged Children.

Background: Developing and improving the literacy skills of disadvantaged children is essential to improving children's academic achievement in all subjects and for ensuring that children are ready for college and career. Disadvantaged children often struggle in grades as early as kindergarten to develop necessary reading skills,[2] and literacy gaps between these children and other children often persist in later grades.[3] Because the literacy skills of young children in grades as early as third grade have been connected to later outcomes, such as high school graduation and postsecondary enrollment,[4] we believe that an important focus of this program should be investing in the pre-literacy and literacy skills of disadvantaged children, including English learners and children with disabilities.

Proposed Priority: To meet this priority, an SEA must describe in its application a high-quality plan to award subgrants that will serve the greatest numbers or percentages of disadvantaged children, including English learners and children with disabilities.

Proposed Priority 3—Alignment within a Birth through Fifth Grade Continuum.

Background: The Department is interested in ensuring that the gains children make in early learning programs supported by SRCL funds are sustained throughout their education, particularly the elementary years. Meeting this objective necessitates close alignment at a State and local level between preschool and elementary education programs; building a preschool through fifth grade system will help to sustain student success, which is especially important in the context of literacy development for disadvantaged children, including English learners and children with disabilities.

Proposed Priority: Under this proposed priority, an SEA must describe in its application a high-quality plan to align literacy projects supported by this grant that serve children from birth to age five with programs and systems that serve students in kindergarten through grade five to improve school readiness and transitions for children across this continuum.

Types of Priorities: When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

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[1] In October 2015, the National Center for Education Statistics released a summary of the evidence generated by grants under the Striving Readers program awarded in 2006 and 2009 to raise the literacy levels of middle and high school students reading below grade level. Fifteen of the 17 evaluations of the interventions met WWC evidence standards with or without reservations. This body of evidence substantially increases the amount of credible information available to district administrators trying to decide how to best meet the needs of struggling adolescent readers. Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance USED, *Striving Readers on the Effectiveness of Interventions for Struggling Adolescent Readers*, available at *http://ies.ed.gov/ncee/pubs/20164001/pdf/20164001.pdf*.

[2] Mulligan, G.M., Hastedt, S., and McCarroll, J.C. (2012). First-Time Kindergartners in 2010–11: First Findings From the Kindergarten Rounds of the Early Childhood Longitudinal Study, Kindergarten Class of 2010–11 (ECLS–K:2011) (NCES 2012–049). U.S. Department of Education. Washington, DC: National Center for Education Statistics. Retrieved September 9, 2015 from *https://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2012049*.

[3] In 2013, results from the National Assessment of Educational Progress (NAEP) Reading Assessment in the 4th and 8th grade show that a higher percentage of the following student groups performed "Below Basic" compared to other student groups in the same category: (1) Students who are eligible for Free- and Reduced-Price Lunch; (2) black and Hispanic students; (3) English learners; and (4) students with disabilities. U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress, 2013 Reading Assessment. Retrieved September 3, 2015, from the Main NAEP Data Explorer (*http://nces.ed.gov/nationsreportcard/naepdata/*.

[4] Lesnick, J., Goerge, R., Smithgall, C., & Gwynne J. (2010). Reading on Grade Level in Third Grade: How Is It Related to High School Performance and College Enrollment? Chicago: Chapin Hall at the University of Chicago. Retrieved September 9, 2015 from *www.aecf.org/m/resourcedoc/aecf-ReadingonGradeLevelLongAnal-2010.PDF*.

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Proposed Requirements:

Background: Because the purpose of this program is to advance literacy and pre-literacy skills for all children, we propose that SEAs must ensure that their State literacy teams assess the State comprehensive literacy plans on a regular basis and that these plans include continuous improvement activities. Additionally, to ensure that the comprehensive literacy instruction programs at the local level are supported by the most recent, up-to-date research, we propose that SEAs require eligible subgrantees to submit local literacy plans.

This NPP adds the statutory supplement-not-supplant requirement found in section 2301 of the ESEA, as amended by the ESSA, to SRCL.

Proposed Requirements: The Assistant Secretary proposes the following requirements for this program. We may apply one or more of these requirements in any year in which this program is in effect.

State Comprehensive Literacy Plan: To be considered for an award under this program, an SEA must submit a State comprehensive literacy plan developed with the assistance of its State literacy team. Additionally, the plan must be reviewed by the State literacy team and updated annually if an SEA receives an award under this program.

Local Literacy Plan: Grantees must ensure that they will only fund subgrantees that submit a local literacy plan that: (1) Is informed by a comprehensive needs assessment; (2) provides for professional development that is aligned with the State comprehensive literacy plan; (3) includes interventions and practices that are supported by moderate evidence of effectiveness or strong evidence of effectiveness (as defined in 34 CFR 77.1), where evidence is applicable and available; and (4) includes a plan to track children's outcomes consistent with all applicable privacy requirements.

Prioritization of Subgrants: In selecting among eligible subgrantees, an SEA must give priority to eligible subgrantees serving greater numbers or percentages of disadvantaged children.

Continuous Program Improvement: Grantees must use data, including the results of monitoring and evaluations, and other administrative data, to inform the program's continuous improvement and decision-making, to improve program participant outcomes, and to ensure that disadvantaged children are served. Additionally, grantees must ensure that subgrantees, educators, families, and other key stakeholders receive the results of the evaluations conducted on the effectiveness of the program in a timely fashion, consistent with all applicable Federal, State, and other privacy requirements.

Supplement not Supplant: Grantees must use funds under this program to supplement, and not supplant, any non-Federal funds that would be used to advance literacy skills for children from birth through grade 12.

Proposed Definitions:

Background: There are several terms associated with the SRCL program. These terms are not defined in section 1502 of the ESEA, the Education Department General Administrative Regulations (EDGAR), or other general regulations that apply to this program.

Proposed Definitions: The Assistant Secretary proposes the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect.

Comprehensive literacy instruction means instruction that—

(a) Includes developmentally appropriate, contextually explicit, and systematic instruction, and frequent practice, in reading and writing across content areas;

(b) Includes age-appropriate, explicit, systematic, and intentional instruction in phonological awareness, phonic decoding, vocabulary, language structure, reading fluency, and reading comprehension;

(c) Includes age-appropriate, explicit instruction in writing, including opportunities for children to write with clear purposes, with critical reasoning appropriate to the topic and purpose, and with specific instruction and feedback from instructional staff;

(d) Makes available and uses diverse, high-quality print materials that reflect the reading and development levels, and interests, of children;

(e) Uses differentiated instructional approaches, including individual and small group instruction and discussion;

(f) Provides opportunities for children to use language with peers and adults in order to develop language skills, including developing vocabulary;

(g) Includes frequent practice of reading and writing strategies;

(h) Uses age-appropriate, valid, and reliable screening assessments, diagnostic assessments, formative assessment processes, and summative assessments to identify a child's learning needs, to inform instruction, and to monitor the child's progress and the effects of instruction;

(i) Uses strategies to enhance children's motivation to read and write and children's engagement in self-directed learning;

(j) Incorporates the principles of universal design for learning;

(k) Depends on teachers' collaboration in planning, instruction, and assessing a child's progress and on continuous professional learning; and

(l) Links literacy instruction to the State's challenging academic standards, including standards relating to the ability to navigate, understand, and write about complex subject matters in print and digital formats.

Disadvantaged child means a child from birth to grade 12 who is at risk of educational failure or otherwise in need of special assistance and support, including a child with a disability or who is an English learner. This term may also include a child who is living in poverty, who is far below grade level, who has left school before receiving a regular high school diploma, who is at risk of not graduating with a diploma on time, who is homeless, who is in foster care, or who has been incarcerated.

Eligible subgrantee means one or more local educational agencies (LEAs) or, in the case of early literacy, one or more LEAs or nonprofit providers of early childhood education with a demonstrated record of effectiveness in improving early literacy development of children from birth through kindergarten entry and in providing professional development in early literacy.

High-quality plan means any plan developed by the State educational agency (SEA) that is feasible and has a high probability of successful implementation and, at a minimum, includes—

(a) The key goals of the plan;

(b) The key activities to be undertaken and the rationale for how the activities support the key goals;

(c) A realistic timeline, including key milestones, for implementing each key activity;

(d) The party or parties responsible for implementing each activity and other key personnel assigned to each activity;

(e) A strong theory, including a rationale for the plan and a corresponding logic model as defined in 34 CFR 77.1;

(f) Performance measures at the State and local levels; and

(g) Appropriate financial resources to support successful implementation of the plan.

Independent peer review means a high-quality, transparent review process informed by outside individuals with expertise in literacy development and education for children from birth through grade 12.

Professional development means activities that—

(a) Are an integral part of school and LEA strategies for providing educators (including teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the State's challenging academic standards;

(b) Are sustained (not stand-alone, one-day, or short term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused; and

(c) May include activities that—

(1) Improve and increase teachers'—

(i) Knowledge of the academic subjects the teachers teach;

(ii) Understanding of how students learn; or

(iii) Ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on such analysis;

(2) Are an integral part of broad schoolwide and districtwide educational improvement plans;

(3) Allow personalized plans for each educator to address the educator's specific needs identified in observation or other feedback;

(4) Improve classroom management skills;

(5) Support the recruitment, hiring, and training of effective teachers, including teachers who became certified through State and local alternative routes to certification;

(6) Advance teacher understanding of—

(i) Effective instructional strategies that are evidence-based; or

(ii) Strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers;

(7) Are aligned with, and directly related to, academic goals of the school or LEA;

(8) Are developed with extensive participation of teachers, principals, other school leaders, parents, representatives of Indian tribes (as applicable), and administrators of schools to be served under this program;

(9) Are designed to give teachers of English learners, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

(10) To the extent appropriate, provide training for teachers, principals, and other school leaders in the use of technology (including education about the harms of copyright piracy), so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and academic subjects in which the teachers teach;

(11) As a whole, are regularly evaluated for their impact on teacher effectiveness and student academic achievement, with the findings of the evaluations used to improve the quality of professional development;

(12) Are designed to give teachers of children with disabilities or children with developmental delays, and other teachers and instructional staff, the knowledge and skills to provide instruction and academic support services to those children, including positive behavioral interventions and supports, multi-tier system of supports, and use of accommodations;

(13) Provide instruction in the use of data and assessments to inform and instruct classroom practice;

(14) Provide instruction in ways that teachers, principals, other school leaders, specialized instructional support personnel, and school administrators may work more effectively with parents and families;

(15) Involve the forming of partnerships with institutions of higher education, including, as applicable, Tribal Colleges and Universities as defined in section 316(b) of the Higher Education Act of 1965, as amended (20 U.S.C. 1059c(b)), to establish school-based teacher, principal, and other school leader training programs that provide prospective teachers, novice teachers, principals, and other school leaders with an opportunity to work under the guidance of experienced teachers, principals, other school leaders, and faculty of such institutions;

(16) Create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under part A of title I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers;

(17) Provide follow-up training to teachers who have participated in activities described in this paragraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom; or

(18) Where practicable, provide for school staff and other early childhood education program providers to address jointly the transition to elementary school, including issues related to school readiness.

State comprehensive literacy plan means a plan that addresses the pre-literacy and literacy needs of children from birth through grade 12, with special emphasis on disadvantaged children. A State comprehensive literacy plan aligns policies, resources, and practices; contains clear instructional goals; sets high expectations for all children and subgroups of children; and provides for professional development for all teachers in effective literacy instruction.

State literacy team means a team comprised of individuals with expertise in literacy development and education for children from birth through grade 12. The State literacy team must include individuals with expertise in the following areas:

(a) Implementing literacy development practices and instruction for children in the following age/grade levels: Birth to school entry, kindergarten through grade 5, grades 6 through 8, and grades 9 through 12;

(b) Managing and implementing evidence-based literacy programs;

(c) Evaluating literacy programs;

(d) Planning for and implementing effective literacy interventions and practices, particularly for disadvantaged children, struggling readers, English learners, and children with disabilities;

(e) Implementing assessments in the areas of phonological awareness, word recognition, phonics, vocabulary, comprehension, fluency, and writing; and

(f) Implementing professional development on literacy development and instruction.

A literacy team member may have expertise in more than one area. Team members may also include: Library/

media specialists; parents; literacy coaches; instructors of adult education; representatives of community-based organizations providing educational services to disadvantaged children and families; family literacy service providers; representatives from local or State school boards; and representatives from related child services agencies.

Universal design for learning, as defined under section 103 of the Higher Education Act of 1965, as amended, means a scientifically valid framework for guiding educational practice that—

(A) Provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and

(B) Reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are limited English proficient.[5]

Proposed Selection Criteria:

Background: We believe the following proposed selection criteria would contribute to our efforts to fund high-quality applications that will promote comprehensive literacy instruction programs under this grant.

Proposed Selection Criteria: The Assistant Secretary proposes the following selection criteria for evaluating an application under this program. We may apply one or more of these criteria in any year in which this program is in effect. In the notice inviting applications, the application package, or both, we will announce the maximum possible points assigned to each criterion.

(a) *State-level activities.*

(1) The extent to which the SEA will support and provide technical assistance to its SRCL program subgrantees to ensure they implement a high-quality comprehensive literacy instruction program that will improve student achievement, including technical assistance on identifying and implementing with fidelity, interventions and practices that are supported by moderate evidence of effectiveness or strong evidence of effectiveness (as defined in 34 CFR 77.1), and align with local needs.

(2) The extent to which the SEA will collect data and other information to inform the continuous improvement, and evaluate the effectiveness and impact, of local projects.

(b) *SEA plan for subgrants.*

The extent to which the SEA has a high-quality plan to use an independent peer review process to award subgrants that propose a high-quality comprehensive literacy instruction program, including:

(1) A plan to prioritize projects that will use interventions and practices that are supported by moderate evidence of effectiveness or strong evidence of effectiveness (as defined in 34 CFR 77.1); and

(2) A process to determine—

(i) The alignment of the local project to the State's comprehensive literacy plan and local needs;

(ii) The relevance of cited studies to the project proposed and identified needs; and

(iii) The extent to which the intervention or practice is supported by moderate evidence of effectiveness or strong evidence of effectiveness, as defined in 34 CFR 77.1.

(c) *SEA monitoring plan.*

(1) The extent to which the SEA describes a high-quality plan for monitoring local projects, including how it will ensure that: (i) The interventions and practices that are part of the comprehensive literacy instruction program are aligned with the SEA's State comprehensive literacy plan and; (ii) the interventions and practices that subgrantees implement are supported by moderate evidence of effectiveness or strong evidence of effectiveness (as defined in 34 CFR 77.1), to the extent appropriate and available; and (iii) these interventions and practices are implemented with fidelity and aligned with the SEA's State comprehensive literacy plan and local needs.

(d) *Alignment of Resources.*

The extent to which the SEA will: (1) Target subgrants supporting projects that will improve instruction for the greatest numbers or percentages of disadvantaged children; and (2) award subgrants of sufficient size to fully and effectively implement the local plan while also ensuring that at least—

(i) 15 percent of the subgranted funds serve children from birth through age five;

(ii) 40 percent of the subgranted funds serve students in kindergarten through grade five; and

(iii) 40 percent of the subgranted funds serve students in middle and high school, through grade 12, including an equitable distribution of funds between middle and high schools.

Final Priorities, Requirements, Definitions, and Selection Criteria: We will announce the final priorities, requirements, definitions, and selection criteria in a notice in the **Federal Register**. We will determine the final priorities, requirements, definitions, and selection criteria after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these proposed priorities, requirements, definitions, and selection criteria, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action would have an annual effect on the economy of more than $100 million because the amount of government transfers through the SRCL program exceeds that amount. Therefore, this proposed action is "economically significant" and subject to review by OMB under section 3(f)(1) of Executive Order 12866. Notwithstanding this determination, we have assessed the potential costs and benefits, both quantitative and qualitative, of this proposed regulatory action and have determined that the benefits would justify the costs.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

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[5] English learner and limited English proficient have the same meaning.

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing these proposed priorities, requirements, definitions, and selection criteria only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this proposed regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In this regulatory impact analysis we discuss the need for regulatory action, the potential costs and benefits, net budget impacts, assumptions, limitations, and data sources, as well as regulatory alternatives we considered.

Need for Regulatory Action

These proposed priorities, requirements, definitions, and selection criteria are needed to implement the SRCL program award process in the manner that the Department believes will best enable the program to achieve its objectives of implementing effective literacy and pre-literacy interventions and practices, at the local level, for disadvantaged children.

Potential Costs and Benefits

The Department believes that the proposed priorities, requirements, definitions, and selection criteria would not impose significant costs on SEAs. Program participation is voluntary, and the costs imposed on applicants by the proposed priorities, requirements, definitions, and selection criteria would be limited to paperwork burden related to preparing an application. The potential benefits of implementing the program using the proposed priorities, requirements, definitions, and selection criteria would outweigh any costs incurred by applicants, and the costs of actually carrying out activities associated with the application would be paid for with program funds. For these reasons, the Department has determined that the costs of implementation would not be an undue burden for eligible applicants, including small entities.

Accounting Statement

As required by OMB Circular A–4 (available at *www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a&-4.pdf*), in the following table we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this regulatory action. This table provides our best estimate of the changes in annual monetized transfers as a result of this regulatory action. Expenditures are classified as transfers from the Federal Government to SEAs.

ACCOUNTING STATEMENT CLASSIFICATION OF ESTIMATED EXPENDITURES

[In millions]

Category	Transfers
Annualized Monetized Transfers.	$190M.
From Whom To Whom?	From Federal Government to SEAs.

The SRCL program would provide approximately $190,000,000 in competitive grants to eligible SEAs.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: The public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

We estimate that each applicant would spend approximately 240 hours of staff time to address the proposed priorities, requirements, definitions, and selection criteria, prepare the application, and obtain necessary clearances. We expect to receive approximately 52 applications. Therefore, for the 52 States (including the District of Columbia and Puerto Rico), the total burden for completing this grant application is 12,480 burden hours. The respondent cost is estimated at $40 per hour for each application. The total cost for approximately 52 respondents is $499,200 (52 respondents × 240 hours × $40/hour = $499,200).

We have prepared an Information Collection Request (ICR) for this collection (1810–NEW). If you want to review and comment on the ICR, please follow the instructions listed under the **ADDRESSES** section of this notice.

Note: The Office of Information and Regulatory Affairs in OMB and the Department of Education review all comments posted at *www.regulations.gov.*

In preparing your comments you may want to review the ICR, including the supporting materials, in *www.regulations.gov* by using the Docket ID number specified in this notice. This proposed collection is identified as proposed collection 1810–AB25.

We consider your comments on this proposed collection of information in—

- Deciding whether the proposed collection is necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collection, including the validity of our methodology and assumptions;

- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Between 30 and 60 days after publication of this document in the **Federal Register**, OMB is required to make a decision concerning the collection of information contained in these proposed priorities, requirements, definitions, and selection criteria. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives your comments on this ICR by July 20, 2016. This does not affect the deadline for your comments to us on the proposed priorities, requirements, definitions, and selection criteria.

If your comments relate to the ICR for these proposed priorities, requirements, definitions, and selection criteria, please specify the Docket ID number and indicate "Information Collection Comments" on the top of your comments.

Written requests for information or comments submitted by postal mail or delivery related to the information collection requirements should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., Mailstop L–OM–2E319LBJ, Room 2E115, Washington, DC 20202–4537.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 15, 2016.

Ann Whalen,

Delegated the authority to perform the functions and duties of Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2016–14529 Filed 6–17–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 13, and 19

[FAR Case 2016–004; Docket No. 2016–0004, Sequence No. 1]

RIN 9000–AN18

Federal Acquisition Regulation: Acquisition Threshold for Special Emergency Procurement Authority

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and the National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the National Defense Authorization Act for Fiscal Year 2016 to raise the simplified acquisition threshold for special emergency procurement authority.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before August 19, 2016 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR case 2016–004 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov*. Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2016–004". Select the link "Comment Now" that corresponds with "FAR Case 2016–004." Follow the instructions provided on the screen. Please include your name, company name (if any), and "FAR Case 2016–004" on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2016–004, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Camara Francis, Procurement Analyst, at 202–550–0935 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAR Case 2016–004.

SUPPLEMENTARY INFORMATION:

I. Background

DOD, GSA, and NASA are proposing to revise the FAR to implement section 816 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114–92). FAR 2.101, 13.003, 19.203, and 19.502–2 are being amended to increase the simplified acquisition threshold for special emergency procurement authority from $300,000 to $750,000 (within the United States) and from $1 million to $1.5 million (outside the United States). The threshold is used for acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This proposed rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule raises the simplified acquisition threshold for special emergency procurement authority, an arena in which a smaller percentage of small businesses participate, as compared to larger businesses. However, an initial regulatory flexibility analysis (IRFA) has been prepared consistent with 5 U.S.C. 603. The analysis is summarized as follows:

> This proposed rule implements section 816 of the National Authorization Act for Fiscal Year (FY) 2016 Public Law 114–92. Therefore, the FAR is revised to raise the simplified acquisition thresholds for special emergency procurement authority.
>
> The objective of this proposed rule is to increase the simplified acquisition thresholds for special emergency procurement authority from $300,000 to $750,000 (within the United States) and $1 million to $1.5 million (outside the United States) for acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack.
>
> DoD, GSA, and NASA do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C.601, *et seq.*, because the rule raises the simplified acquisition threshold for special emergency procurements, an arena in which a smaller percentage of small businesses participate, as compared to larger businesses. Between $300,000 and the increase to $750,000, 188 total awards were made of which 45 or 24 percent were to small businesses in FY 2014, and 219 total awards were made of which 66 or 30 percent were to small businesses in FY 2015. Between $1 million and the increase to $1.5 million, 56 total awards were made of which 10 or 17 percent were small businesses in FY 2014, and 29 total awards were made of which 9 or 31 percent were to small businesses in FY 2015. The proposed rule imposes no reporting, recordkeeping, or other information collection requirements.
>
> The rule does not duplicate, overlap, or conflict with any other Federal rules.
>
> There are no known significant alternatives to the rule. The impact of this proposed rule on small business is not expected to be significant.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the proposed rule consistent with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2016–004), in correspondence.

IV. Paperwork Reduction Act

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 2, 13, and 19

Government procurement.

Dated: June 14, 2016.

William Clark,

Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, DoD, GSA, and NASA are proposing to amend 48 CFR parts 2, 13, and 19, as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 13, and 19 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 2—DEFINITIONS WORDS AND TERMS

2.101 [Amended]

■ 2. Amend the definition "Simplified acquisition threshold" in paragraph (b) of section 2.101 by:

■ a. Removing from paragraph (1) "$300,000" and adding in its place "$750,000"; and

■ b. Removing from paragraph (2) "$1 million" and adding in its place "$1.5 million".

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.003 [Amended]

■ 3. Amend section 13.003 by removing from paragraph (b)(1) "$300,000" and adding "$750,00" in its place.

PART 19—SMALL BUSINESS PROGRAMS

19.203 [Amended]

■ 4. Amend section 19.203 by removing from paragraph (b) "$300,000" and adding "$750,000" in its place.

19.502–2 [Amended]

■ 5. Amend section 19.502–2 by removing from paragraph (a) "$300,000" and adding "$750,000" in its place.

[FR Doc. 2016–14413 Filed 6–17–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8 and 13

[FAR Case 2015–015; Docket No. 2015–0015; Sequence No. 1]

RIN 9000–AM89

Federal Acquisition Regulation: Strategic Sourcing Documentation

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement a section of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 that provides that the contract file shall contain certain documentation if the Federal Government makes a purchase of supplies and services offered under the Federal Strategic Sourcing Initiative (FSSI), but the FSSI is not used.

DATES: Interested parties should submit comments to the Regulatory Secretariat Division at one of the addresses shown below on or before August 19, 2016 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments in response to FAR case 2015–015 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2015–015"." Select the link "Comment Now" that corresponds with "FAR Case 2015–015." Follow the instructions provided on the screen. Please include your name, company name (if any), and "FAR Case 2015–015" on your attached document(s).

- *Mail:* General Services Administration, Regulatory Secretariat Division, ATTN: Ms. Flowers, 1800 F Street NW., 2nd floor, Washington, DC 20405.

Instructions: Please submit comments only and cite "FAR case 2015–015" in all correspondence related to this case. Comments received will generally be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment, please check *www.regulations.gov,* approximately two to three business days after submission to verify posting (except allow 30 days for posting of comments submitted by mail.)

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite "FAR Case 2015–015."

SUPPLEMENTARY INFORMATION:

I. Background

Section 836 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (NDAA) (Pub. L. 113–291) was enacted on December 19, 2014. This provision is part of subtitle D, Federal Information Technology Acquisition Reform, of title VIII of the NDAA. It established that when the Federal Government makes a purchase of supplies or services offered under the Federal Strategic Sourcing Initiative (FSSI), but the FSSI is not used, the contract file for the purchase shall include a brief analysis of the comparative value, including price and nonprice factors, between the supplies and services offered under the FSSI and those offered under the source(s) to be used for the purchase. The goals and benefits of the FSSI Program as taken directly from the FSSI strategic sourcing Web site (*www.strategicsourcing.gov*) are—

Strategic sourcing is the structured and collaborative process of critically analyzing an organization's spending patterns to better leverage its purchasing power, reduce costs, and improve overall performance. The primary goals of FSSI are to—

- Strategically source across federal agencies;
- Establish mechanisms to increase total cost savings, value, and socioeconomic participation;
- Collaborate with industry to develop optimal solutions;
- Share best practices; and
- Create a strategic sourcing community of practice.

Strategic Sourcing drives both dollar savings and process improvements. The Federal Government, suppliers and ultimately the U.S. taxpayers benefit when government can better articulate its requirements and provide committed purchase volumes, and in return, industry suppliers can provide better pricing and more valuable solutions. Specific benefits of Strategic Sourcing include—

- Meet OMB's goal for cross-government participation;
- Assist with socioeconomic goals;
- Collect and analyze data;
- Identify trends;
- Re-engineer high cost business processes;
- Replicate cost-saving business processes;
- Share lessons learned and best practices;
- Realize cost efficiencies;
- Streamline procurement process; and
- Drive additional discounts.

By ensuring consideration of strategically sourced vehicles, the proposed documentation requirement will raise the visibility of these solutions, promote their use, and help to better leverage the Government's buying power.

This proposed rule complements other efforts and strategies being developed under the Category Management Initiative, which builds on the success of strategic sourcing by managing entire categories of common purchases across the Government and utilizing teams of experts to manage those specific categories to drive down total cost and improve performance. See Transforming the Federal Marketplace: Simplifying Federal Procurement to Drive Performance, Drive Innovation, and Increase Savings (December 4, 2014) available at *https://www.whitehouse.gov/sites/default/files/omb/procurement/memo/simplifying-federal-procurement-to-improve-performance-drive-innovation-increase-savings.pdf.*

II. Proposed FAR Changes

The purpose of the proposed FAR changes is to update FAR 8.004 to add the requirements established by section 836. Additionally, FAR 13.301 is updated to clarify that for micro-purchases made using the governmentwide purchase card, purchase card holders shall follow the documentation requirements in Appendix B of OMB Circular A–123 (available at *https://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a123/a123_appendix_b.pdf*), which prescribes management guidance on the use of purchase cards.

This new FAR rulemaking requires contracting officers when purchasing supplies or services that are offered under the FSSI, but the FSSI is not used, to document the contract file to include a brief analysis of the comparative value, including price and nonprice factors, between the supplies and services offered under the FSSI and those offered under the source(s) to be used for the purchase.

III. Applicability to Contracts for Amounts not Greater Than the Simplified Acquisition Threshold (SAT), Commercial Items, and Commercially Available Off-the-Shelf (COTS) Items

41 U.S.C. 1905 governs the applicability of laws to contracts or subcontracts in amounts not greater than the SAT. 41 U.S.C. 1906 requires that the FAR include a list of provisions of law that are inapplicable to the acquisition of commercial items (other than the acquisition of commercially available off-the-shelf (COTS) items). 41 U.S.C. 1907 requires that the FAR include a list of provisions of law that are inapplicable to the acquisition of COTS items. It is anticipated that at the time of the final rule the FAR Council will approve these determinations.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to Office of Information and Regulatory Affairs (OIRA) review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September

30, 1993. This proposed rule is not a major rule under 5 U.S.C. 804.

V. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the proposed rule only affects the internal operating procedures of the Government.

However, an Initial Regulatory Flexibility Analysis (IRFA) was performed and is summarized as follows:

This rule implements section 836 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, which provides that the contract file shall contain certain documentation if the Federal Government makes a purchase of supplies and services offered under the Federal Strategic Sourcing Initiative (FSSI), but the FSSI is not used.

The goal of the rule is to have contracting officers consider use of the GSA Federal Strategic Sourcing Initiative (FSSI) when purchasing items that are available through FSSI.

According to the Federal Procurement Data System, in Fiscal Year 2014, the Federal Government made approximately 170,403 contract awards (not including modifications and orders), of which approximately 85,624 (50.25 percent) were awarded to about 43,545 unique small business entities. The rule requires action by contracting officers when purchasing items available through FSSI and will not directly affect any small entities. It specifically requires the contracting officer to place certain documentation in the contract file if the Federal Government makes a purchase of supplies and services offered under the Federal Strategic Sourcing Initiative (FSSI), but the FSSI is not used. The rule could indirectly affect small businesses that offer supplies or services under the FSSI as the rule will require contracting officers to consider FSSI vendors when they may not have done so in the past, and this could lead to more sales for those small businesses. There are currently 137 entities awarded under the FSSI, of which 78 (57 percent) are small entities. The required consideration of FSSI offerings does not directly have a negative effect on entities not awarded an FSSI contract, but the required contracting officer consideration and documentation requirement could indirectly lead to more purchases going to those vendors involved in the FSSI.

An explicit goal of Federal strategic sourcing is to maintain and/or enhance socio-economic goals. Partnering with small businesses during key stages of the strategic sourcing process will enable the FSSI to meet or exceed socio-economic goals. As part of the FSSI process, current spending with small business is baselined for each initiative to gain an understanding of how much is being spent. Then sourcing strategies are developed that expand the business done with targeted groups against that baseline, quantify the expected changes, and compare this with actual results as required by OMB guidance on strategic sourcing. Each participating agency will continue to be responsible for achieving its socio-economic goals and will need to evaluate the impact of FSSI sourcing recommendations.

There is no reporting required by Government contractors, all action on the rule is internal to the Government.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

No viable alternatives were determined at this rulemaking stage.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2015–015), in correspondence.

VI. Paperwork Reduction Act

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. chapter 35.

List of Subjects in 48 CFR Parts 8 and 13

Government procurement.

Dated: June 14, 2016.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA and NASA propose amending 48 CFR parts 8 and 13 as set forth below:

■ 1. The authority citation for 48 CFR parts 8 and 13 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

■ 2. Amend section 8.004 by—

■ a. Redesignating paragraphs (a)(1) and (2) as paragraphs (a)(1)(i) and (ii), respectively;

■ b. Redesignating the introductory paragraph as paragraph (a)(1);

■ c. Removing from the newly designated paragraph (a)(1) "paragraph (a)" and "paragraph (b)" and adding "paragraph (a)(1)" and "paragraph (a)(2)" in their places, respectively;

■ d. Removing from the newly redesignated paragraph (a)(1)(ii) "paragraph (a)(1)" and adding "paragraph (a)(1)(i)" in its place;

■ e. Redesignating paragraph (b) as paragraph (a)(2); and

■ f. Adding new paragraph (b).

The addition reads as follows:

8.004 Use of other sources.

* * * * *

(b) *Documentation requirements relating to the Federal Strategic Sourcing Initiative (FSSI).* When purchasing supplies or services that are offered under the FSSI, but the FSSI is not used, the contract file shall be documented to include a brief analysis of the comparative value, including price and nonprice factors, between the supplies and services offered under the FSSI and those offered under the source(s) to be used for the purchase (section 836 of Pub. L. 113–291).

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

■ 3. Amend section 13.301 by revising paragraph (b) to read as follows:

13.301 Governmentwide commercial purchase card.

* * * * *

(b)(1) Agencies using the Governmentwide commercial purchase card shall establish procedures for use and control of the card that comply with the Treasury Financial Manual for Guidance of Departments and Agencies (TFM 4–4500) (available at *http://tfm.fiscal.treasury.gov/v1/p4/c450.html*, the Office of Management and Budget's Circular A–123, Appendix B (available at *https://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a123/a123_appendix_b.pdf*), and that are consistent with the terms and conditions of the current GSA credit card contract.

(2) Agency procedures should not limit the use of the Governmentwide commercial purchase card to micro-purchases. Agency procedures should encourage use of the card in greater dollar amounts by contracting officers to place orders and to pay for purchases against contracts established under part 8 procedures, when authorized; and to place orders and/or make payment under other contractual instruments, when agreed to by the contractor. See 32.1110(d) for instructions for use of the appropriate clause when payment under

a written contract will be made through use of the card.

* * * * *

[FR Doc. 2016–14412 Filed 6–17–16; 8:45 am]

BILLING CODE 6820–EP–P

Notices

Federal Register
Vol. 81, No. 118
Monday, June 20, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Land Between The Lakes Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Land Between The Lakes Advisory Board (Board) will meet in Golden Pond, Kentucky. The Board is authorized under section 450 of the Land Between The Lakes Protection Act of 1998 (Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the Board is to advise the Secretary of Agriculture on the means of promoting public participation for the land and resource management plan for the recreation area; and environmental education. Board information can be found at the following Web site: *http://www.landbetweenthelakes.us/.*

DATES: The meeting will be held at 9:00 a.m. on July 19, 2016.

All Board meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Land Between The Lakes Administration Building, 100 Van Morgan Drive, Golden Pond, Kentucky.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Land Between The Lakes Adminstrative Building. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Christine Bombard, Board Coordinator, by phone at 270–924–2002 or via email at *cabombard@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Discuss Environmental Education; and
2. Effectively communicate future land management plan activities.

The meeting is open to the public. Board discussion is limited to Forest Service staff and Board members. Written comments are invited and should be sent to Tina Tilley, Area Supervisor, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211; and must be received by July 5, 2016, in order for copies to be provided to the members for this meeting. Board members will review written comments received, and at their request, oral clarification may be requested for a future meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: June 10, 2016.

Tina R. Tilley,

Area Supervisor, Land Between The Lakes.

[FR Doc. 2016–14577 Filed 6–17–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyard Administration

Submission for OMB Review; Comment Request

June 15, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 20, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Commentors are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Grain Inspection, Packers and Stockyard Administration

Title: Swine Contract Library.

OMB Control Number: 0580–0021.

Summary of Collection: The Swine Packer Marketing Contracts, subtitle of the Livestock Mandatory Reporting Act of 1999, amended the Packers and Stockyards Act (P&S Act) to mandate the establishment of a library of swine packer marketing contracts (swine contract library), and a monthly report of types of contracts in existence and available and commitments under such contracts. On February 17, 2016, a final rule was published re-establishing regulatory authority for the Swine

Contract Library's regulations (9 CFR part 206) by amending the regulations' authority citation to include Subtitle B of Title II of the P&S Act (7 U.S.C. 198–198b). The collection of information is necessary for the Grain Inspection, Packers and Stockyards Administration (GIPSA) to perform the functions required for the mandatory reporting of swine packer marketing contract information.

Need and Use of the Information: Information is required from packers for processing plants that meet certain criteria, including size as measured by annual slaughter. This information is collected using forms P&SP–341, 342 and 343. GIPSA is responsible for implementing and enforcing the P&S Act, including the swine contract library. The information collection and recordkeeping requirements for the swine contract library are essential for maintaining a mandatory library of information on contracts used by packers to purchase swine from producers and monthly reports of commitments under such contracts.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 54.

Frequency of Responses: Reporting: On occasion; Monthly.

Total Burden Hours: 2,600.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–14492 Filed 6–17–16; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Submission for OMB Review; Comment Request

June 14, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 20, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Institute of Food and Agriculture

Title: Veterinary Medicine Loan Repayment Program (VMLRP).

OMB Control Number: 0524–NEW.

Summary of Collection: In January 2003, the National Veterinary Medical Service Act (NVMSA) was passed into law adding section 1415A to the National Agricultural Research, Extension, and Teaching Policy Act of 1997. This law established a new Veterinary Medicine Loan Repayment Program (VMLRP) (7 U.S.C. 3151a) authorizing the Secretary of Agriculture to carry out a program of entering into agreements with veterinarians under which they agree to provide veterinary services in veterinarian shortage situations. The purpose of the program is to assure an adequate supply of trained food animal veterinarians in shortage situations and provide USDA with a pool of veterinary specialists to assist in the control and eradication of animal disease outbreaks. The National Institute of Food and Agriculture (NIFA) will designate geographic and practice areas that have a shortage of food supply veterinarians in order to carry out the VMLRP goals of strengthening the nation's animal health infrastructure and supplementing the Federal response during animal health emergencies. NIFA will carry out NVMSA by entering into educational loan repayment agreements with veterinarians who agree to provide veterinary services in veterinarian shortage situation for a determined period of time. NIFA will collect information using the Shortage Situation Nomination Form, Application Form, Records and Reports, and Surveys.

Need and Use of the Information: The information collected allows the National Institute of Food and Agriculture to request from VMLRP applicants' information related to eligibility, qualification, career interests, and recommendations necessary to evaluate their applications for repayment of educational indebtedness in return for agreeing to provide veterinary services in veterinarian shortage situations. The information will also be used to determine an applicant's eligibility for participation in the program. The information also allows the VMLRP to assess program processes and impact, make program improvements based on process feedback, and provide feedback to State Animal Health Officials on veterinarian shortage situations, which can aide them during the nomination process.

Description of Respondents: Individuals or households; Business or other for-profit.

Number of Respondents: 1,190.

Frequency of Responses: Reporting: Biennially.

Total Burden Hours: 11,979.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–14416 Filed 6–17–16; 8:45 am]

BILLING CODE 3410–09–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Announcement of Application Deadlines and Requirements for Section 313A Guarantees for Bonds and Notes Issued for Electrification or Telephone Purposes Loan Program for Fiscal Year (FY) 2016

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Rural Utilities Service (RUS), an agency of the United States Department of Agriculture (USDA), published a document in the **Federal Register** of June 14, 2016, concerning the Announcement of Application Deadlines and Requirements for Section 313A Guarantees for Bonds and Notes Issued for Electrification or Telephone Purposes Loan Program for Fiscal Year

(FY) 2016. The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: For further information contact Amy McWilliams, Management Analyst, 1400 Independence Avenue SW., STOP 1568, Room 0226–S, Washington, DC 20250–1568. Telephone: (202) 205–8663; email: *amy.mcwilliams@wdc.usda.gov.*

Corrections

In the **Federal Register** of June 14, 2016, in the FR Doc. 2016–14009, make the following corrections to read as follows:

1. On page 38660, in the third column, correct the **DATES** caption to read:

DATES: Completed applications must be received by RUS no later than 5:00 p.m. Eastern Daylight Time (EDT) on Friday, July 15, 2016.

2. On page 38660, in the third column, in the **Overview** section, correct the *Due Date for Applications* caption to read:

Due Date for Applications: Applications must be received by RUS by 5:00 p.m. Eastern Daylight Time (EDT) on Friday, July 15, 2016.

3. On page 38661, column one, in the II. **Award Information** section, correct the *Application Date* caption to read:

Application Date: Applications must be received by RUS by no later than 5:00 p.m. Eastern Daylight Time (EDT) on Friday, July 15, 2016.

Dated: June 14, 2016.

Brandon McBride,

Administrator, Rural Utilities Service.

[FR Doc. 2016–14491 Filed 6–17–16; 8:45 am]

BILLING CODE P

BROADCASTING BOARD OF GOVERNORS

Government in the Sunshine Act Meeting Notice

DATE AND TIME: Thursday, June 23, 2016, 9:45 a.m.–12:00 p.m. EDT.

PLACE: Cohen Building, Room 3321, 330 Independence Ave. SW., Washington, DC 20237.

SUBJECT: Notice of Meeting of the Broadcasting Board of Governors.

SUMMARY: The Broadcasting Board of Governors (Board) will be meeting at the time and location listed above. The Board will vote on a consent agenda consisting of the minutes of its April 20, 2016 meeting, a resolution honoring the 65th anniversary of Voice of America's (VOA) Armenian Service, a resolution honoring the 65th anniversary of VOA's Georgian Service, a resolution honoring the 20th anniversary of VOA's Bosnian Service, and a resolution honoring the 15th anniversary of Radio the Radio Free Europe/Radio Liberty Balkan Service's Macedonian Unit. The Board will receive a report from the Chief Executive Officer and Director of BBG. The Board will also hear from representatives of the BBG's networks regarding the BBG's impact model, including examples or areas where BBG has had impact through its journalism as well as impact as a driving ethos for BBG's journalism.

This meeting will be available for public observation via streamed webcast, both live and on-demand, on the agency's public Web site at *www.bbg.gov.* Information regarding this meeting, including any updates or adjustments to its starting time, can also be found on the agency's public Web site.

The public may also attend this meeting in person at the address listed above as seating capacity permits. Members of the public seeking to attend the meeting in person must register at *http://bbgboardmeetingjune2016.eventbrite.com* by 12:00 p.m. (EDT) on June 22. For more information, please contact BBG Public Affairs at (202) 203–4400 or by email at *pubaff@bbg.gov.*

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Oanh Tran at (202) 203–4545.

Oanh Tran,

Director of Board Operations.

[FR Doc. 2016–14652 Filed 6–16–16; 4:15 pm]

BILLING CODE 8610–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration.

Title: Procedures for Importation of Supplies for Use in Emergency Relief Work.

Form Number(s): N/A.

OMB Control Number: 0625–0256.

Type of Request: Regular Submission.

Burden Hours: 15.

Number of Respondents: 1.

Average Hours per Response: 15.

Needs and Uses: The regulations (19 CFR 358.101–104) provide procedures for requesting the Secretary of Commerce to permit the importation of supplies, such as food, clothing, and medical, surgical, and other supplies, for use in emergency relief work free of antidumping and countervailing duties.

Affected Public: Business or other for-profit organizations.

Frequency: Varies.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to OIRA *Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: June 15, 2016.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2016–14462 Filed 6–17–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2001]

Approval of Subzone Status; Cabela's Inc.; Tooele, Utah

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ". . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of subzones for specific uses;

Whereas, the Salt Lake City Corporation, grantee of Foreign-Trade Zone 30, has made application to the Board for the establishment of a subzone at the facility of Cabela's Inc., located in Tooele, Utah, (FTZ Docket B–03–2016, docketed January 20, 2016);

Whereas, notice inviting public comment has been given in the **Federal**

Register (81 FR 4250, January 26, 2016) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves subzone status at the facility of Cabela's Inc., located in Tooele, Utah (Subzone 30B), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Signed at Washington, DC, this 2nd day of June 2016.

Paul Piquado,

Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–14530 Filed 6–17–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–40–2016]

Foreign-Trade Zone (FTZ) 133—Quad-Cities, Iowa/Illinois; Notification of Proposed Production Activity; Deere & Company; Subzone 133F (Construction and Forestry Equipment); Dubuque, Iowa

Deere & Company (Deere), operator of Subzone 133F, submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 133F, located in Dubuque, Iowa. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on May 26, 2016.

The facility is used for the production of construction and forestry equipment. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Deere from customs duty payments on the foreign-status components used in export production. On its domestic sales, Deere would be able to choose the duty rate during customs entry procedures that applies to backhoes, crawler dozers, crawler loaders, skid steer loaders, tracked feller bunchers, tracked harvesters, knuckleboom loaders (and their cabs) (duty free) for the foreign-status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Silicone dosing module hoses; polyvinyl chloride reflectors; plastic labels/plugs/push button switches/washers/input shaft seals/rings/vent breather clamps/bearings; rubber hoses/hose pipes/transmission hose tubes/rings/o-rings/o-ring kits/dust seals/gaskets/o-ring packings/brake seals/differential assembly shaft seals/oil pan gaskets/seals/guide rings/seal kits/u-rings/boots/bump shifter boots/damper absorbers/door stop bumpers/grommets/ring supports/isolators/mount absorbers/mount isolators; cork gaskets; paper gaskets/seals/installation instructions; adhesive paper anti-skid pads; non-asbestos friction disks; glass rear view mirrors; steel hydraulic reservoir tanks/wiring harness cables/alloy rippers/scarifier plates/alloy u-bolts/screws/bolts/studs/plugs/nuts/retainer plate & nut assemblies/fittings/bushings/springs/lock plates/washers/shims/pins/rings/clutch rollers/kingpins/fasteners/retainers/clamps/straps/caps/balls/beaded adapters/bucket tooth adapter kits/flanges/spacers/cylinder shaft seals/shafts/hose supports/joint assemblies/o-ring fittings/push beam trunnions/return oil lines/ring forks/shim kits/sleeves/splined couplings/couplers/threaded nipples/toolboxes/toolbox assemblies/toolbox lid covers; cast iron raw castings; iron mounting adapters; bronze bushings; copper electric connectors; aluminum valve housings; disk saw teeth; insert teeth; tooth kits; center cutting edges; outer cutting edges; bucket locks; fitting keys; hinge leaves; gas-operated cylinders; brackets; boom stops; latches; dust caps; fuel filler caps; identification plates; diesel engines; gear box pistons; air cleaner hoses; air intake assemblies; air intake stacks; diesel exhaust fluid pressure lines; duct plate manifolds; exhaust gas recirculation clamps; foot well assemblies; fuel lines; oil pans; orifices; piston rings; thermostat assembly covers; thermostat housings; valve covers; hydraulic cylinders; steering cylinders; thumb kit clamps; fan drive motors; hydraulic motors; hydrostatic motors; hydraulic cylinder kits; hydraulic cylinder ports; oil line assemblies; parking brake pistons; steering cylinder kits; steering cylinder rods; cooler bypass manifolds; hydraulic manifolds; hydraulic oil tubes; hydraulic vent assembly tubes; oil line tubes; pressure manifolds; return line hydraulic tubes; return manifolds; reservoir tanks; fuel injection pumps; fuel pumps; oil pumps; regulating valves; gear pumps; hydraulic pumps; main pumps; diesel exhaust fluid lines; charge pump piston rings; disk brake pistons; hydraulic reservoirs; pump shafts; steering cylinder barrels; compressors; blower fan assemblies; exhaust stack diffusers; air conditioners; vapor condensers; evaporator coils; heater/evaporator coils; refrigerant hoses; heater coils; hose assembly breathers; joint breathers; aluminum charge air coolers; heat exchangers; hydraulic oil coolers; oil coolers; condenser cores; fuel filters; fuel inlet tubes; oil filters; oil filter elements; receiver-dryers; transmission oil filters; air cleaners; transmission pump filters; catalytic converters; filter elements; filter heads; air intake guards; boom tubes; catwalk platforms; counterweights; counterweight weldments; door grills; grapple rotators; heel supports; housing weldments; hydraulic boom tubes; hydraulic oil lines; hydraulic reservoirs for forestry equipment; jib boom assemblies; log loader grapples; lower frame cover plates; main boom assemblies; manifold core returns; muffler adapters; pressure tubes; reinforcement plates; stabilizer assemblies; stabilizer manifolds; suction tubes; upper frames; bucket ripper teeth; flare bucket teeth; multi-purpose buckets; backhoe buckets; excavator buckets; loader buckets; skid steer buckets; cutting edge end bits; dozer blades; dozer blade cutting edges; dura-max blade cutting edges; fork assemblies; hydraulic clamp kits; pallet forks; pallet fork tines; ripper shank assemblies; bucket teeth; axles; axle casings; axle housings; axles with differential; ball joints; battery boxes; battery disconnect brackets; boom locks; bottom rollers; brackets; brake assembly shims; brake disks; bucket links; bucket sensor tubes; bucket tooth adapters; bucket tooth plugs; bucket tooth retainers; cast brackets; clutch assembly bearing covers; clutch brake disk carriers; coolant tubes; cooler guards; cooler tubes; cutting edges; diesel emission exhaust fluid lines; disk brake hubs; driver casting assemblies; duct plate housings; dura-max cutting edges; end bits; exhaust pipe assemblies; fan adapters; fan guards; fitting yokes; foot control pedals; four wheel drive axles; front axles; fuel tank assemblies; fuel tank brackets; fuel tank enclosure guards; grill frames; grill frame assemblies; handrail supports; handrail tubes; harness fan drive assemblies; heat shield plates; hood weldments; hydraulic tanks; impact breakers; joint housings; grill frame supports; pipe cylinder lines; loader bucket links; locks; lower carrier plates; machined mounting brackets; mounting plates; oil lines; output shafts; park brake housings; pilot base struts; pin type forks; pistons; piston rods; pivot castings; pivot shifts; brake plates; power link casting assemblies; quick couplers; rear axles; breaker rods; rod assemblies; rubber boom stops; self-leveling arms; service guide links; shift collars; bucket side protector shrouds; side boom assemblies; bucket standard teeth; stabilizer street pads; suction pipe assemblies; support plates; surge tank supports; swivel housings; tie rod assemblies; tie rod ends; transmission mounts; bucket twin tiger teeth; valve mounting brackets; bucket wear shrouds; weldment brackets; wheel flanges; wheel flange hubs; yoke shims; rubber track belts; 4-bolt flange fittings; access panel covers; air flow tubes; air plenums; air cleaner/pre cleaner brackets; axle assemblies; axle drive housings; quick coupler back covers; backer plate weldments; baffle brackets; battery service doors; boom lock assemblies; boom bosses; bracket harnesses; bracket plates; bracket supports; bracket weldments; brake assembly disks; brake housings; brake line tubes; brake pistons; brake shoes; bucket pivot bosses; bucket teeth; bucket tooth pin fasteners; bulkhead brackets; bulkhead plates; cast steps; central ship covers; channel plates; charge air coolers; chin strap guards; bucket chisel teeth; clutch assembly axles; clutch assembly roller sets; cooling module assemblies; cooling packages; cooling package support brackets; cooling system radiators; final drive covers; cover guard assemblies; cross flow oil coolers; cylinder transport brackets; decomposition tubes; diesel exhaust fluid tank header assemblies; diesel exhaust fluid tank lid covers; deflector plates; diesel exhaust fluid insulated pressure lines; diesel exhaust fluid suction lines; differential housings; planetary assembly disks; brake separator disk plates; drive housings; electrical box supports; engine harness bracket assemblies; engine mounting bracket supports; exhaust bracket weldments; exhaust nozzles; exhaust pipes; exhaust stack plenums; fan harness brackets; fan mount plates; fan mounting brackets; fan shroud brackets; filter brackets; fuel filter brackets; foot pedal assemblies; foot throttle brackets; footwell assembly covers; forks; fork tines; frame kits; friction disks; front consoles; fuel filler pipes; fuel tank strap brackets; fuse plate covers; grading buckets; grill covers; grill housing weldments; cylinder guards; gusset weldments; heat shield mount plates; heater line tubes; steel brackets; hub cap covers; hydraulic hose tubes; hydraulic plate partitions; idler brackets; idler bracket weldments; idler covers; impactor breakers; input flanges; input shafts; input shaft hubs; isolator brackets; joystick mounting brackets; jump start covers; linkage electric mechanisms; lift cylinder bosses; load center consoles; load center covers; lower links; lower link assemblies; lower link bosses; lower link kits; lower weldment links; moldboard end bits; mufflers; nozzle assemblies; nut plates; oil tubes; outer accumulator arms; parking brakes; pedal assembly mountings; pedal base assembly brackets; pedal brackets; pedal mounting brackets; pitch link assemblies; pivot arm levers; pivot covers; pivot shafts; plate brackets; pressure bracket assemblies; pump mount brackets; hydraulic pump spacers; push blocks; push beam casting pivots; quik-tach links; rear bumpers; rear engine mount brackets; rippers; relay brackets; retention bosses; retrieval hitches; axle guards; rigid drawbars; ripper frame mounts; ripper lift arms; ripper shanks; blade ripper teeth; ripper/scar beams; riser brackets; scarifier casting links; scraper blades; transmission screens; screen sheet caps; screen shields; separator plates; shafts; shank and tooth assemblies; shank assembly rippers; shank guards; side panel brackets; side shield bumpers; single bar shoes; skid steer mounting frames; sliding front roller frames; spring brackets; standard bucket teeth; bucket star teeth; steel guide rings; steel upper lift arms; steering bellcranks; steering columns; steering links; steering shafts; step assemblies; striker bolt brackets; striker plates; suction tube lines; sulfur compatible mufflers; support assemblies; support brackets; support weldments; surge tank brackets; tandem drive housings; toe guard support angle brackets; toggle/rocker switches; track frames; track frame kits; track frame tie down plates; transmission guards; transmission housing axles; transmission hydrostatic covers; transmission oil line pipes; trunnions; upper carrier plates; upper link bosses; upper rear panel covers; valve brackets; wear plates; weight weldment assembly brackets; yoke dust shields; scarifier attachments; jointers; transmission case covers; breaker mounting frames; shank assemblies; scarifier ripper shanks; scarifier shanks; weld-on shanks; rockers; hand brake arm assemblies; rear axle gussets; access doors; adapter plates; air duct covers; rear cover assemblies; tube assemblies; axle hydraulic system tubes; bar cranks; battery mounting structures; bellcranks; cab guards; casting covers; channels; coolant heater tubes; cooling package brackets; cover plates; cylinder boom tubes; cylinder tubes; dipstick tubes; door latch tubes; elbow flange fittings; engine control panel covers; engine frame guards; extinguisher brackets; fire suppression tubes; flange rollers; frame guard doors; front axle housings; front wheel drive axle guards; fuel filter tubes; fuel tanks; gear housings; gear runners; guard plates; heeler arm half clamps; hinge bracket plates; hose brackets; hose guide plates; hose routing brackets; hydraulic boom system tubes; hydraulic pump manifold tubes; hydraulic pump system tubes; hydraulic reservoir assemblies; hydraulic suction tubes; hydraulic tank covers; hydraulic tubes; keel door guards; front shields; leveling ladders; lift links; links; log forks; lower assembly frames; lower debris guards; lower frames; lower radiator tubes; main booms; main cylinder tubes; main frames; mounting rings; non-leveling ladders; oil filter brackets; pilot line tubes; plate covers; plate guards; platform supports; posts; power management tubes; pressure line tubes; radiators; radiator tubes; rear assembly links; removable panel covers; retainer plates; roller flanges; rotary manifold brackets; routing bridge brackets; saw motor tubes; secondary booms; side hood shields; slider frames; stabilizer feet; steel oil lines; steel one bend tubes; stick cylinder tubes; structural tubes; suction line tubes; suction saw pump tubes; suction tank end tubes; supports; swing table assembly frames; tank assemblies; tank brackets; tank fill return line tubes; tank strap brackets; test manifolds; torque arm brackets; torsional dampers; track drive tubes; track frame kits; oil line tubes; fire suppression tube kits; undercarriages; undercarriage removable plates; valve mount brackets; valve plates; wear plate weldments; wear resistant teeth; weldment covers; weldment doors; weldment supports; wiper/monitor covers; wrist frames; hydraulic accumulators; brake valves; control valves; flow control hydraulic valves; hydraulic pressure valves; single pilot controllers; transmission shift valves; valve kits; solenoid hydraulic valves; check valves; pressure relief valves; vent valves; drain valves; quik-tach couplers; solenoid valves; injection nozzles; manual hydraulic valves; pilot control valves; valves; shifting controllers; electrohydraulic controllers; hydraulic control valves; thermostats; thermostatic control valves; block valves; valve housings; cylinders; disk carrier housings; duct plates; end plates; hydraulic valve plates; joint steering housings; manifold plates; valve pistons; valve spools; thermostat housing with plugs; control valve manifolds; hydraulic manifolds; hydraulic vent tubes; manifolds; quick attach couplers; rotary manifolds; thermostat covers; valve mounting plates; valve sleeves; ball bearings; roller bearings; clutch assembly bearings; axial bearings; needle bearings; clutch assembly ball bearings; cylindrical roller bearings; spherical roller bearings; tapered roller bearings; thrust bearings; clutch assembly roller bearings; needle rollers; bearing cups; bearing races; axle housing shafts; cross pinion shafts; differential shafts; driveshafts; gear pinion shafts; gearbox housing output shafts; power takeoff shafts; rear axle shaft assemblies; stub shafts; sun transmission shafts; torque converter shafts; transmission input shafts; transmission pivot shafts; universal driveshafts; pressed flanged housings; bush bearings; axial guide bushings; bearings; bearing cones; bushings; drive shaft roller bearings; gear thrust washers; handrail spacers; pitch bushings; roll bushings; self-aligning bushings; torque converters; disc brake planetary assemblies; final drives; final drive assemblies; power transmissions; transmissions; transmission motors; axle bevel gears; double flange idlers; idlers; clutches; axle ball joints; cross and bearing assemblies; universal joints; bevel gears; bevel gear drives; carrier disks; center housings; clutch assembly disks; control valve pistons; converter housings; couplings; cross shafts; diaphragms; differential side gears; differential assembly pistons; differential case housings; disk carriers; disk with outer splines; drivers; end yokes; fork shifters; fork tine assemblies; fuel injection pump gears; gears; gear box flanges; gear input flanges; gear separator plates; gearbox splined couplings; helical gears; housings; input clutch gears; internal gears; middle housings; oil feed flanges; output shaft solid shims; output yokes; parking brake pistons; pinion shafts; planetary gears; planetary pinions; planet pinion carriers; planetary assemblies; pressure rings; rear output shafts; rear section housings; ring gears; ring gear and pinions; ring gear and pinion differentials; ring gear carriers; roller sets; running disks; universal joint yoke guards; sealing cap covers; transmission output shaft steel sheets; side gears; spur gears; sun gears; sun gear shafts; synchronizer assemblies; transmission cases; transmission covers; transmission housing covers; transmission oil lines; transmission oil tubes; wheel gears; yokes; yoke with shafts; yoke with tubes; universal joint crosses; universal joint yokes; yokes; clutch assembly disks; clutch assembly pistons; clutch disks; clutch disk plates; clutch kits; clutch plates; diaphragms; disk carrier drums; friction plates; torque converter housings; axle clutch disks; mounting ring plates; output shaft solid shims; output shaft wheel hubs; output yokes; pinions; planet pinion carriers; planetary assemblies; torque converter covers; control valve gaskets; exhaust gas recirculation gaskets; gas exhaust gaskets; steel gaskets; steering shaft guide rings; tube seals; axle housing shaft seals; drive shaft yoke seals; input seal kits; metal gaskets; seal gaskets; seal kits; sealing rings; turbo oil return gaskets; differential output seals; oil seals; oscillating pin seals; shaft seals; wheel end seals; boom lock assemblies; front guards; lower lift arms; lubrication fittings; upper lift arms; winches; wiper motors; electric motor fan assemblies; electric motors; breaker points; alternator belts; alternators; glow plugs; rear lenses; coolant heaters; brake resistors; heater coils; venturi welded assemblies; radar sensors; satellite modules; GPS (global positioning system) antennas; multiband antennas; display monitors; tracked feller buncher monitors; 12-volt resistors; relays; relay modules; push switches; limit switches; locking switches; magnetic pickup switches; parking brake assembly switches; pressure switches; switches; temperature switches; speed sensor connector kits; electrical connector assemblies; control consoles; 12-volt monitors; electrical control kits; electronic control units; ripper control assemblies; transmission controllers; vehicle controllers; shift selectors; steering column modules; flood lamps; magnetic pickup sensors; rotary sensors; self-leveling rotary sensors; transmission sensors; AC (air conditioning)/heater harnesses; engine wiring harnesses; ergo power cables; ignition wiring harnesses; transmission wiring harnesses; cab wiring harnesses; chassis wiring harnesses; control valve wiring harness cables; wiring harnesses; mount frames; cab mount casting isolators; cooling inlet screens; fenders; fender steps; mini hoods; side hoods; side hood weldments; steps; brake drums; brake covers; brake assembly housings; brake plates; disc brakes; park brakes; gear box planetary assemblies; axle bearing covers; driven gears; straight bevel gears; differential bevel gears; differential gear and pinions; drive flanges; gears with teeth; gearshift levers; slip differential housings; pinion shaft assemblies; differential locks; powertrain ring gears; pressure ring housings; half sleeves; ball stud caps; exhaust adaptors; exhaust tube assemblies; muffler pipes; muffler tubes; input gears; shaft assembly rings; clutch disk with outer splines; clutch disks with inner splines; forward clutch shafts; clutch disks; steering column kits; axle assembly ring gears; differential assembly flanges; guide rings; magnetic disks; rear differential bevel gears; section rings; axle guards; axle guard doors; belly pan covers; cylinder guards; diesel exhaust fuel line tubes; engine side shields; exhaust tubes; fan supports; frame supports; fuel leak off hoses; hydraulic plates; rear shields; screen guards; stacking blade cutting edges; thermostat cover with plugs; tie rod end caps; water tank assemblies; lift arms; main booms; mounting frames; mounting rail guides; pivot frames; clutch assembly shafts; flange shaft tubes; end yoke fittings; front differential gear and pinions; pinion gears; planetary shafts; steel oil pipes; air conditioner housings; articulation guards; axle guard doors; bearing covers; control valve plates; cylinder covers; decomposition tube assemblies; differential pressure rings; differential pinion shafts; dust shields; engine side shields; felling head deflector plates; front shields; grill fronts; middle shields; motor actuators; oil suction tubes; planetary drive clutch disks; rear shields; shaft assembly caps; side shafts; speed sensor covers; structure supports; transmission cover plates; transmission pump plates; upper cylinder guards; water tank weldments; yoke deflectors; temperature sensors; thermocouple sensors; diesel exhaust fluid tank headers; electrical system senders; fuel senders; filler tube dipsticks; oil dipsticks; pressure sensors; angle sensors; vehicle monitors; exhaust chemical sensors; chemical sensors; instrument clusters; instrument panels; speed sensors; engine controllers; seat swivel kits; armrest foams; arm pad assemblies; armrest assemblies; and, armrest bracket plates (duty rates range from free to 9%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is August 1, 2016.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the

"Reading Room" section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: June 10, 2016.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2016–14428 Filed 6–17–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–964]

Seamless Refined Copper Pipe and Tube From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On December 7, 2015, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of the 2013–2014 administrative review of the antidumping duty order on seamless refined copper pipe and tube from the People's Republic of China ("PRC").[1] The period of review ("POR") is November 1, 2013, through October 31, 2014. We invited parties to comment on our *Preliminary Results.* Based on our analysis of the comments received, we made certain changes to the margin calculations for the mandatory respondent Golden Dragon Precise Copper Tube Group, Inc., Hong Kong GD Trading Co., Ltd., and Golden Dragon Holding (Hong Kong) International, Ltd. and eight affiliated producers that comprise the GD Single Entity.[2] The final weighted-average dumping margins for this review are listed in the "Final Results" section below.

DATES: *Effective Date:* June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Drew Jackson, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4406.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 2015, the Department published its *Preliminary Results.* On February 11, 2016, the Golden Dragon Group Companies[3] submitted a case brief and on February 16, 2016, Cerro Flow Products, LLC, Wieland Copper Products, LLC, Mueller Copper Tube Products Inc., and Mueller Copper Tube Company, Inc. (collectively, "Petitioners") submitted a rebuttal brief.[4] In accordance with 19 CFR 351.302(d)(1)(i) and 19 CFR 351.104(a)(2)(ii), on March 28, 2016, the Department rejected the Golden Dragon Group Companies' case brief because it contained untimely filed new factual information.[5] On March 29, 2016, the Golden Dragon Group Companies resubmitted a redacted version of this case brief.[6]

Extension of Deadlines for Final Results

As explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government.[7] All deadlines in this segment of the proceeding have been extended by four days. Additionally, on March 23, 2016, the Department extended the time period for issuing the final results of this review by 60 days.[8] The revised deadline for these final results of review is June 10, 2016.

Scope of the Order

The merchandise subject to the order is seamless refined copper pipe and tube. The product is currently classified under Harmonized Tariff Schedule of the United States ("HTSUS") item numbers 7411.10.1030 and 7411.10.1090. Products subject to this order may also enter under HTSUS item numbers 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of this order remains dispositive.[9]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

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[1] *See Seamless Refined Copper Pipe and Tube from the People's Republic of China: Preliminary Results and Partial Rescission of Administrative Review; 2013–2014,* 80 FR 75968 (December 7, 2015) ("*Preliminary Results*").

[2] The GD Single Entity includes the following companies: (1) Golden Dragon Precise Copper Tube Group, Inc.; (2) Golden Dragon Holding (Hong Kong) International, Ltd.; (3) Hong Kong GD Trading Co., Ltd.; (4) Shanghai Longyang Precise Copper Compound Copper Tube Co., Ltd.; (5) Jiangsu Canghuan Copper Industry Co., Ltd.; (6) Guangdong Longfeng Precise Copper Tube Co., Ltd.; (7) Wuxi Jinlong Chuancun Precise Copper Tube Co., Ltd.; (8) Longkou Longpeng Precise Copper Tube Co., Ltd.; (9) Xinxiang Longxiang Precise Copper Tube Co., Ltd.; (10) Coaxian Ailun Metal Processing Co., Ltd.; and (11) Chonqing Longyu Precise Copper Tube Co., Ltd. (the "GD Single Entity"). *See Preliminary Results* at 75968.

[3] Respondent's submissions in this administrative review are filed on behalf of Golden Dragon Precise Copper Tube Group, Inc., Hong Kong GD, Trading Co., Ltd., GD Copper Cooperatief UA, Golden Dragon Holding (Hong Kong) International, Ltd., and GD Copper (U.S.A.) ("Golden Dragon Group Companies").

[4] *See* Submission to the Department from the Petitioners, concerning, "Rebuttal Brief of the Copper Tube Coalition," dated February 16, 2016.

[5] *See* Letter to the Golden Dragon Group Companies from Robert Bolling, Program Manager, AD/CVD Operations, Office IV, dated March 28, 2016.

[6] *See* Letter to the Department from the Golden Dragon Group Companies, concerning, "Resubmitted Case Brief; Seamless Refined Copper Pipe and Tube from China," dated March 29, 2016.

[7] *See* Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding, "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas," dated January 27, 2016.

[8] *See* Memorandum to Gary Taverman, Associate Deputy Assistant Director, Antidumping and Countervailing Duty Operations, through Abdelali Elouaradia, Office Director, Antidumping and Countervailing Duty Operations, Office IV, concerning, "2013–2014 Administrative Review of the Antidumping Duty Order on Seamless Refined Copper Pipe and Tube from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated March 23, 2016.

[9] For a complete description of the scope of this order, *see* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding "Issues and Decision Memorandum for the Final Results of the 2013–2014 Administrative Review of the Antidumping Duty Order on Seamless Refined Copper Pipe and Tube from the People's Republic of China" ("Issues and Decision Memorandum"), dated concurrently with, and hereby adopted by, this notice.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, we made the following revisions to the margin calculations for the GD Single Entity:[10]

- We revised a deduction for unrefunded VAT from the calculation of net U.S. price.
- We revised the valuation of the by-product offset for recycled copper.
- We revised the distance used in our calculation of inland freight expenses using record information.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the "Act"), the Department verified information provided by the Golden Dragon Group Companies.[11] The Department conducted the verification using standard verification procedures including the examination of relevant records and the selection and review of original documentation containing relevant information. The results of the verification are outlined in the public version of the verification reports. The verification reports are on file electronically *via* ACCESS.

Final Results

We determine that the following weighted-average dumping margin exists for the POR:

Exporter	Weighted-Average dumping margin (percent)
Golden Dragon Precise Copper Tube Group, Inc./Golden Dragon Holding (Hong Kong) International Co., Ltd./Hong Kong GD Trading Co., Ltd./Shanghai Longyang Precise Copper Compound Copper Tube Co., Ltd./Jiangsu Canghuan Copper Industry Co., Ltd./Guangdong Longfeng Precise Copper Tube Co., Ltd./Wuxi Jinlong Chuancun Precise Copper Tube Co., Ltd./Longkou Longpeng Precise Copper Tube Co., Ltd./Xinxiang Longxiang Precise Copper Tube Co., Ltd./Coaxian Ailun Metal Processing Co., Ltd./Chonqing Longyu Precise Copper Tube Co., Ltd	0.00

Assessment

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

For the companies identified above, which comprise the GD Single Entity, the weighted-average dumping margin is zero. Therefore, the Department will instruct CBP to liquidate appropriate entries by the companies that comprise the GD Single Entity without regard to antidumping duties.[12] For entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate.

For entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For the exporters identified above, the cash deposit rate will be zero; (2) for previously investigated or reviewed PRC and non-PRC exporters that received a separate rate in a previously completed segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled a separate rate, the cash deposit rate will be that for the PRC-wide entity (*i.e.*, 60.85 percent); and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed regarding these final results within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

Notifications to All Parties

This notice also serves as a reminder to parties subject to Administrative Protective Order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: June 10, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Issues and Decision Memorandum

Summary
Background

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[10] *See* Issues and Decision Memorandum.

[11] *See* Memorandum to the File through Robert Bolling, Program Manager, AD/CVD Operations, Office IV, concerning, "Verification of the Constructed Export Price Sales Questionnaire Responses of GD Copper (U.S.A.), Inc.," dated January 1, 2016. *See also* Memorandum to the File through Robert Bolling, Program Manager, AD/CVD Operations, Office IV, concerning, "Verification of the Questionnaire Responses of Golden Dragon Precise Copper Tube Group, Inc.," dated February 3, 2016.

[12] *See* 19 CFR 351.212(b)(1).

Scope of the Order
Discussion of the Issues
  Comment 1: Surrogate Value for Recovered Copper By-Product
  Comment 2: Application of Financial Ratios to Recovered Inputs
  Comment 3: Inland Freight Surrogate Value
  Comment 4: Distance From Port to Warehouse
  Comment 5: Calculation of Unrecovered Value-Added Tax ("VAT")
  Comment 6: Whether To Value Water as a Direct Material Input Recommendation

[FR Doc. 2016–14426 Filed 6–17–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No.: 160606495–6495–01]

RIN 0625–XC019

2016 Fee Schedule for National Travel and Tourism Office for the Advance Passenger Information System/I–92 Program, I–94 International Arrivals Program, and Survey of International Air Travelers Program

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of revised fee schedule.

SUMMARY: Consistent with the guidelines in OMB Circular A–25,[1] federal agencies are responsible for conducting a biennial review of all programs to determine the types of activities subject to user fees and the basis upon which user fees are to be set. The U.S. Department of Commerce, National Travel and Tourism Office (NTTO) is raising the fees for 2016 data for the monthly, quarterly and annual data from the Advance Passenger Information System (APIS)/I–92 Program, the I–94 International Arrivals Program, and the annual custom reports, data tables or files from the Survey of International Air Travelers Program. The NTTO has been providing this data for a fee for many years and has developed a subscriber base for each of these programs. The 2016 fee schedules for each program are available on the NTTO Web site. The fees collected for these reports go to pay ITA costs to develop the reports as well as to support research for the continuation and expansion of improvements to the data provided by the NTTO. The revised fee schedule is effective immediately upon publication of this Notice.

DATES: This fee schedule is effective June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Richard Champley at: (202) 482–4753, or *richard.champley@trade.gov;* or Claudia Wolfe at: (202) 482–4555, or *claudia.wolfe@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: Consistent with the guidelines in OMB Circular A–25, federal agencies are responsible for conducting a biennial review of all programs to determine the types of activities subject to user fees and the basis upon which user fees are to be set. The U.S. Department of Commerce, International Trade Administration (ITA), recently completed a biennial review and will be notifying the public, on a rolling basis, on the various ITA user fee adjustments.

In addition to OMB Circular A–25, the NTTO follows OMB Circular A–130, which mandates that federal agencies develop and maintain a comprehensive set of information management policies for use across the government, and to promote the application of information technology to improve the use and dissemination of information in the operation of Federal programs. The role of NTTO is to enhance the international competitiveness of the U.S. travel and tourism industry and increase its exports, thereby creating U.S. employment and economic growth. The primary functions of the NTTO are: (1) Management of the travel and tourism statistical system for assessing the economic contribution of the industry and providing the sole source for characteristic statistics on international travel to and from the United States; (2) design and administration of export expansion activities; (3) development and management of tourism policy, strategy and advocacy; and, (4) technical assistance for expanding this key export (international tourism) and assisting in domestic economic development. There are three main research programs in which the public may obtain additional data on the international travelers to and from the United States in addition to free information posted to the NTTO Web site. The revised 2016 fees are for the monthly, quarterly or annual data from the APIS/I–92 Program, the I–94 International Arrivals Program, and the annual custom reports, data tables or files from the Survey of International Air Travelers Program.

The APIS/I–92 program is a joint effort between the Department of Homeland Security Customs and Border Protection (CBP) and the NTTO to provide international air traffic statistics data to the government and the travel industry. The system is a source of data on all international flights to and from the United States, including flights with fewer than 10 passengers. It reports the total volume of air traffic and various subsets of traffic. A differentiating feature of the I–92 is that the I–92 reports the number of U.S. citizens vs. "all other citizens." The information collected from this program has been based upon the Advance Passenger Information System (APIS) since July 2010. All carriers serving the United States must transmit APIS data (from their automated flight manifests) to CBP for each flight coming to or departing from the United States. Canada also is included in this program. The information collected provides non-stop point-to-point air traffic totals between the United States and all other countries and between U.S. and foreign airports. This information is further subset by the number of passengers on U.S. flag or foreign flag carriers. In addition, there is a breakout of scheduled or charter flight passengers. In the monthly, quarterly and annual I–92 reports, there are four sets of tables. The first three sets have an arrivals portion (Ia, IIa, and IIIa), as well as a departures section (Id, IId, and IIId). The fourth table is a summary of traffic by flag of carrier. To learn more about this program, go to: *http://travel.trade.gov/research/programs/i92/index.asp.* The current 2016 and historical fees (1990–2015) for this program can be found at: *http://travel.trade.gov/research/reports/i92/index.asp.* Fees for APIS/I–92 products include a 5 percent fee increase between 2015 and 2016.

The I–94 International Arrivals Program is a core part of the U.S. travel and tourism statistical system. This program provides the U.S. government and the public with the official U.S. monthly and annual overseas visitor arrivals to the United States along with select Mexican and Canadian visitor statistics. The NTTO manages the program in cooperation with the CBP. The program collects and reports overseas non-U.S. resident visitor arrivals to the United States. U.S. government data consists of the DHS I–94 data, which non-U.S. citizens from overseas and Mexico must complete to enter the United States. All visitation data is processed by residency (world region and country), for total arrivals, type of visa, mode of transportation, age of traveler, address (state level only) while in the United States port of entry, and select percentage change comparisons year-over-year. The information is presented in a report entitled the *Summary of International Travel to the United States* with 35 tables including the categories above.

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[1] *https://www.whitehouse.gov/omb/circulars_a025.*

NTTO publishes arrivals data to its Web site on a monthly basis, and reports and custom reports or tables are available on a monthly, quarterly or annual basis. More information about this program is available at *http://travel.trade.gov/research/programs/i94/index.asp.* The current 2016 and historical fees (1992–2015) for this program can be found at: *http://travel.trade.gov/research/reports/i94/index.html.* Fees for I–94 products include a 5 percent fee increase between 2015 and 2016.

The Survey of International Air Travelers Program is a primary research program which gathers statistical data about air passenger travelers in U.S.—overseas and Mexican air markets (Canada is excluded). The program also serves as the cornerstone for NTTO's efforts to assist U.S. businesses to improve their competitiveness and effectiveness in the international travel market. The Survey is conducted on selected flights which have departed, or are about to depart, from the major U.S. international gateway airports. The Survey is administered either aboard flights or in the airport gate area, of the over 90 participating airlines (foreign and U.S.) departing 26 U.S. international gateways. The Survey data is "weighted" to census data. For example, non-resident inbound survey responses are weighted to the "100%" population of DHS I–94 arrival records to adjust for over and under sampling. Resident outbound data is weighted based on DHS I–92 U.S. departure data. Data are available on a quarterly and annual basis for either non-resident inbound or resident outbound. It can be delivered in a standard national report format or as a custom report, data table, or excel. Data files are also available. To learn more about this program, go to: *http://travel.trade.gov/research/programs/ifs/index.asp.* The current 2016 and historical fees (1983–2015) for this program can be found at: *http://travel.trade.gov/research/reports/ifs/index.asp.* When viewing the current fee structure for the SIAT reports, the tables will show there is no fee increase for the vast majority of the standard published reports and their corresponding Excel tables as there has not been for the last five years. The only reports or data for which the NTTO is revising the fees are shown below; the past fees are accessible through the above links.

Fee Schedule increases for the APIS/I–92 program, the I–94 International Arrivals Program and the Survey of International Air Travelers (SIAT) Program are shown in the tables below. All fees shown are 5 percent greater in 2016 than in 2015. For the I–94 program, the NTTO is eliminating the print files and will only provide a PDF and Excel file to save costs and provide an Excel version of the reports. For the SIAT, a majority of the reports offered will see no fee increase between 2015 and 2016. The custom reports, data tables and files see a 5 percent fee increase in 2016.

	2016 Fee
APIS/I–92 Program:	
Monthly Reports printed	$1,995
Monthly Reports (PDF and Excel)	2,985
Quarterly Reports printed	1,800
Quarterly Reports (PDF and Excel)	2,690
Annual Report printed	1,400
Annual Report (PDF and Excel)	2,090
Data Files, for internal use only	23,745
I–94 International Arrivals Program:	
Monthly Subscription (PDF and Excel)	2,130
Quarterly Subscription (PDF and Excel)	1,870
Annual Issue (PDF and Excel)	1,290
Annual, data file (CD–ROM)	14,580
Quarterly, data file (CD–ROM)	16,365
Combined 2015 and 2016 International I–94 Arrivals Data:	
Monthly Subscription (PDF and Excel)	3,240
Quarterly Subscription (PDF and Excel)	2,755
Annual Issue (PDF and Excel)	1,740
Survey of International Air Travelers Program:	
CUSTOM TABLE—1st table, in Excel	2,365
CUSTOM TABLE—all other tables in Excel	1,430
Custom Reports with Excel and pdf (First banner)	8,875
Custom Reports with Excel and pdf (Second banner)	7,985
Custom Reports with Excel and pdf (Third + banners)	7,145

Method for Determining Fees

ITA collects, retains, and expends user fees pursuant to delegated authority under the Mutual Educational and Cultural Exchange Act as authorized in its annual appropriations acts. For each program, NTTO has a set of subscribers who have been using this data, some for decades. Most rely upon this data as the only federal source to define the international travel market to this country and to their destination or for their sector.

Fees are set taking into account the cost of providing this data. Most of the NTTO research is implemented using fixed price contracts. Within the contracts are built-in cost adjustments. The NTTO considers program cost changes due to the needed level of timeliness and other quality of service considerations as well as needed or actual improvements such as new report formats, more travelers surveyed, or other enhancements to the research data provided. The NTTO also generally considers the current demand for each program by comparing changes from one year to the next before setting fees.

In adjusting its current fees, NTTO also considered the purchasing constraints experienced by current or potential subscribers (such as limits to purchase by credit card, or sole source/open bid requirements) and factored in the annual percentage change in the Consumer Price Index (used to determine rate of inflation).

In the analysis of these fees, it was determined that the services provided offer special benefits to an identifiable recipient beyond those that accrue to the general public. The NTTO calculated the actual cost of providing its data services in order to provide a basis for setting each fee. Actual cost incorporates direct and indirect costs (including operations and maintenance), overhead, and charges for the use of capital facilities. NTTO also took into account additional factors when pricing goods and services, including adequacy of cost recovery, affordability, available efficiencies, inflation, pricing history, fee elasticity considerations (including client ability to pay for NTTO data), and service delivery alternatives.

Conclusion

Based on the information provided above, the NTTO believes its revised fees are consistent with the objective of OMB Circular A–25 to "promote efficient allocation of the nation's resources by establishing charges for special benefits provided to the recipient that are at least as great as the cost to the U.S. Government of providing the special benefits . . ." OMB Circular A–25(5)(b).

Dated: June 15, 2016.

Julie P. Heizer,

Deputy Director, National Travel & Tourism Office, U.S. Department of Commerce.

[FR Doc. 2016–14527 Filed 6–17–16; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Final Results and Final Rescission of the 20th Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) published the *Preliminary Results* of the 20th administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) on December 7, 2015.[1] We gave interested parties an opportunity to comment on the *Preliminary Results.* Based upon our analysis of the comments and information received, we made changes to the margin calculation for these final results regarding one of the mandatory respondents, Shenzhen Xinboda Industrial Co., Ltd. (Xinboda). We also continue to find that the other mandatory respondents, Hebei Golden Bird Trading Co., Ltd. (Golden Bird) and Qingdao Tiantaixing Foods Co., Ltd. (QTF), withheld requested information, significantly impeded this administrative review, and did not cooperate to the best of their abilities. Accordingly, pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), we continue to use adverse facts available (AFA) and find that neither Golden Bird nor QTF is eligible for separate rate status and thus, both companies are part of the PRC-wide entity. The final dumping margins are listed below in the "Final Results of Administrative Review" section of this notice. The period of review (POR) is November 1, 2013, through October 31, 2014.

DATES: *Effective Date:* June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith, AD/CVD Operations, or Thomas Gilgunn, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone 202–482–5255 or 202–482–4236, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Results* on December 7, 2015.[2] As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final results of this review was April 11, 2016.[3] On April 4, 2016, the Department extended the deadline in this proceeding by 30 days to May 11, 2016.[4] On May 4, 2016, the Department extended the deadline in this proceeding by another 30 days to June 10, 2016.[5]

In accordance with 19 CFR 351.309, we invited parties to comment on our *Preliminary Results.* QTF, Petitioners and Xinboda all submitted timely-filed case briefs, pursuant to our regulations.[6] Additionally, Petitioners and Xinboda submitted timely-filed rebuttal briefs.[7] Finally, on March 3, 2016, the Department held a public hearing where counsel for QTF, Xinboda and Petitioners presented arguments in their case and rebuttal briefs.

Scope of the Order

The merchandise covered by the order includes all grades of garlic, whole or separated into constituent cloves. Fresh garlic that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 0703.20.0000, 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, 2005.99.9700. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive. For a full description of the scope of this order, please see "Scope of the Order" in the accompanying Issues and Decision Memorandum.[8]

Partial Rescission of Administrative Review

In the *Preliminary Results,* we stated our intention to preliminarily rescind this administrative review with respect to Jinxiang Kaihua Imp & Exp Co. Ltd. (Kaihua), because we found its POR sales to not be *bona fide* in the concurrent new shipper review.[9] We received no comments on our intent to rescind the review of Kaihua for the

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[1] *See Fresh Garlic From the People's Republic of China: Preliminary Results, Preliminary Intent To Rescind, and Partial Rescission of the 20th Antidumping Duty Administrative Review; 2013–2014,* 80 FR 75972 (December 7, 2015) (*Preliminary Results*) and accompanying Issues and Decision Memorandum (PDM).

[2] *See Preliminary Results.*

[3] *See* Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas," (January 27, 2016).

[4] *See* Memorandum to Christian Marsh, "Fresh Garlic from the People's Republic of China: Extension of Deadline for Final Results of the Antidumping Duty Administrative Review," (April 4, 2016).

[5] *See* Memorandum to Christian Marsh, "Fresh Garlic from the People's Republic of China: Extension of Deadline for Final Results of the Antidumping Duty Administrative Review," (May 4, 2016).

[6] *See* Case Brief filed by Qingdao Tiantaixing Foods Co., Ltd. (QTF Case Brief) (January 11, 2016); Petitioners' Case Brief (January 15, 2016); Letter from Shenzhen Xinboda Industrial Co., Ltd. ("Xinboda") "Fresh Garlic from the People's Republic of China—Case Brief," (January 19, 2016) (Xinboda's Case Brief).

[7] *See* Letter from Shenzhen Xinboda Industrial Co., Ltd. ("Xinboda") "Fresh Garlic from the People's Republic of China—Xinboda Rebuttal Brief," (February 2, 2016) (Xinboda's Rebuttal Brief); *see also* Petitioners' Rebuttal Brief (February 2, 2016).

[8] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Fresh Garlic from the People's Republic of China; 2013–2014," dated concurrently with this notice (I&D Memo).

[9] *See Fresh Garlic From the People's Republic of China: Final Rescission of the Semiannual Antidumping Duty New Shipper Review of Jinxiang Kaihua Imp & Exp Co., Ltd.,* 80 FR 60881 (October 8, 2015).

Final Results. Therefore, we are rescinding this administrative review with respect to Kaihua.

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs by parties in this review in the I&D Memo. Appendix I provides a list of the issues which parties raised. The I&D Memo is a public document and is on file in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the CRU. In addition, a complete version of the I&D Memo can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed I&D Memo and the electronic versions of the I&D Memo are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* and for the reasons explained in the I&D Memo, we revised the margin calculation for Xinboda. Accordingly, for the *Final Results,* the Department has also updated the margin to be assigned to companies eligible for a separate rate but not selected for individual examination; this margin is the same as Xinboda's margin. The Calculation Memo for Xinboda's Final Results and the Surrogate Values Memo contain further explanation of our changes to Xinboda's factors of production.[10] For a list of all issues addressed in these *Final Results,* please refer to Appendix I accompanying this notice.

Final Determination of No Shipments

In the *Preliminary Results,* the Department preliminarily determined that the companies listed in Appendix III timely filed "no shipment" certifications and did not have any reviewable transactions during the POR. Consistent with the Department's assessment practice in non-market economy (NME) cases, we completed the review with respect to the companies listed in Appendix III. Based on the certifications submitted by the aforementioned companies, and the fact that CBP provided no evidence to contradict the claims by the aforementioned companies of no shipments, we continue to determine that these companies did not have any reviewable transactions during the POR. As noted in the "Assessment Rates" section below, the Department intends to issue appropriate instructions to CBP for the companies listed below based on the final results of this review.

PRC-Wide Entity

As discussed in the *Preliminary Results,* the Department preliminarily determined 38 companies to be part of the PRC-wide entity.[11] In addition to the two mandatory respondents which failed to cooperate to the best of their ability to comply with the Department's requests for information, there were 36 companies for which a review was requested, and not withdrawn, which did not file a separate rate application or certification, and did not file a no shipments certification. Accordingly, the Department determined that these companies are part of the PRC-wide entity.

As discussed in detail in the I&D Memo, the Department continues to find Golden Bird and QTF to be part of the PRC-wide entity. QTF commented on our preliminary decision that it is part of the PRC-wide entity, and we have addressed QTF's comments in the I&D Memo.

Thus, for these final results, the Department continues to find all 38 companies to be part of the PRC-wide entity. A full list of companies determined to be part of the PRC-wide entity can be found in Appendix II.

Separate Rates

In the *Preliminary Results,* the Department found that non-selected companies Jinan Farmlady Trading Co., Ltd., Jining Maycarrier Import & Export Co, Ltd., Jining Shunchang Import & Export Co., Ltd., Jinxiang Feiteng Import & Export Co., Ltd., Jinxiang Guiha Food Co., Ltd., Jinxiang Hejia Co., Ltd., Jining Yongjia Trade Co., Ltd., Shenzhen Yuting Foodstuff Co., Ltd., Jining Shengtai Vegetables & Fruits Co., Ltd., Shenzhen Bainong Co., Ltd., Weifang Hongqiao International Logistics Co., Ltd., and Yantai Jinyan Trading Inc. demonstrated their eligibility for a separate rate.[12] No party has placed any evidence on the record of this review to contradict that finding. Therefore, we continue to find that these companies are eligible for a separate rate.

The separate rate for non-selected companies is normally the amount equal to the weighted average of the calculated weighted-average dumping margins established for mandatory respondents, excluding any zero and *de minimis* margins, and any margins determined entirely on adverse facts available.[13] Here, the only individually-examined respondent for which the Department has determined a weighted-average margin is Xinboda. As that margin is not zero, *de minimis,* or based entirely on facts available, the Department determines that Xinboda's rate will be assigned to the non-selected separate rate recipients.

Final Results of Administrative Review

The weighted-average dumping margins for the administrative review are as follows:

Exporter	Weighted-average margin (dollars per kilogram)
Shenzhen Xinboda Industrial Co., Ltd	2.75
Jinan Farmlady Trading Co., Ltd	2.75
Jining Maycarrier Import & Export Co., Ltd	2.75
Jining Shunchang Import & Export Co., Ltd	2.75
Jinxiang Feiteng Import & Export Co., Ltd	2.75
Jinxiang Guihua Food Co., Ltd	2.75
Jinxiang Hejia Co., Ltd	2.75
Jining Yongjia Trade Co., Ltd	2.75
Shenzhen Yuting Foodstuff Co., Ltd	2.75
Jining Shengtai Vegetables & Fruits Co., Ltd	2.75
Shenzhen Bainong Co., Ltd	2.75
Weifang Hongqiao International Logistics Co., Ltd	2.75
Yantai Jinyan Trading Inc	2.75

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[10] *See* Memorandum to the File, through Thomas Gilgunn Program Manager, Office VII, Enforcement and Compliance, from Jacqueline Arrowsmith, International Trade Analyst, Office VII, Enforcement and Compliance, regarding 20th Antidumping Administrative Review of Fresh Garlic from the People's Republic of China: Calculation Memorandum for the Final Results of Shenzhen Xinboda Industrial Co., Ltd., dated concurrently with and hereby adopted by this notice ("Calculation Memo for Xinboda's Final Results") and Memorandum to the File, through Thomas Gilgunn Program Manager, Office VII, Enforcement and Compliance, from Jacqueline Arrowsmith, International Trade Analyst, Office VII, Enforcement and Compliance, regarding 20th Antidumping Administrative Review of Fresh Garlic from the People's Republic of China: Surrogate Values for the Final Results, dated concurrently with and hereby adopted by this notice ("Surrogate Values Memo").

[11] *Id.,* at 72626.

[12] *See Preliminary Results.*

[13] Neither the Act nor the Department's regulations address the establishment of the rate applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of exports has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation.

Exporter	Weighted-average margin (dollars per kilogram)
PRC-Wide Rate	4.71

In addition, the Department continues to find that the companies identified in Appendix II are part of the PRC-wide entity.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b), the Department has determined, and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

Where the respondent reported reliable entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).[14] Where the Department calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, the Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit rates.[15] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[16] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[17] We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate.

Pursuant to the Department's assessment practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide entity rate. Additionally, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide entity rate.[18]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporter listed above, the cash deposit rate will be the rate established in the final results of review (except, if the rate is zero or *de minimis, i.e.,* less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of $4.71 per kilogram; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. The deposit requirements shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: June 10, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Issues
  Comment 1: Whether the Department's Selection of Romania as the Surrogate Country Was Appropriate
  Comment 2: The Department's Rejection of Mexico as a Surrogate Country Violated the Department's New Factual Information Regulations and Was Not in Accordance With Law
  Comment 3: Whether QTF Cooperated to the Best of Its Ability in This Review
  Comment 4: Accounting for Storage and Transportation Factors for Input Garlic Bulbs Consumed by Excelink
  Comment 5: The Department Should Adjust the Weight Denominator for Brokerage and Handling and Trucking and Remove Letter of Credit Expense
  Comment 6: Modifying Preliminary Analysis To Account for Water Consumed in Producing Fresh Peeled-Clove Garlic
V. Conclusion

Appendix II—List of Companies Under Review Subject to the PRC-Wide Rate

1. Anqiu Friend Food Co., Ltd.
2. Dalian New Century Food Co., Ltd.
3. Foshan Fuyi Food Co, Ltd.
4. Goodwave Technology Development Ltd.
5. Guangxi Lin Si Fu Bang Trade Co., Ltd.
6. Hebei Golden Bird Trading Co., Ltd.
7. Hejiahuan (Zhongshan) Electrical AP
8. Henan Weite Industrial Co., Ltd.
9. Heze Ever-Best International Trade Co., Ltd. (f/k/a Shandong Heze International Trade and Developing Company)
10. Jining Trans-High Trading Co., Ltd.
11. Jinxiang Dongyun Freezing Storage Co., Ltd. (a/k/a Jinxiang Eastward Shipping Import and Export Limited Company)

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[14] *See* 19 CFR 351.212(b)(1).

[15] *Id.*

[16] *Id.*

[17] *See* 19 CFR 351.106(c)(2).

[18] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

12. Jinxiang Dongyun Import & Export Co., Ltd.
13. Jinxiang Grand Agricultural Co., Ltd.
14. Jinxiang Infarm Fruits & Vegetables Co., Ltd.
15. Jinxiang Meihua Garlic Produce Co., Ltd.
16. Jinxiang Shanyang Freezing Storage Co., Ltd.
17. Jinxiang Tianma Freezing Storage Co., Ltd.
18. Jinxiang Xian Baishite Trade Co., Ltd. (a/k/a Jinxiang Best Trade Co., Ltd.)
19. Juye Homestead Fruits and Vegetables Co., Ltd.
20. Laiwu Jiahe Fruit and Vegatable Co., Ltd.
21. Qingdao Everfresh Trading Co., Ltd.
22. Qingdao Tiantaixing Foods Co., Ltd.
23. Shandong Longtai Fruits and Vegetables Co., Ltd.
24. Shanghai Ever Rich Trade Company
25. Shanghai LJ International Trading Co., Ltd.
26. Shenzhen Xunong Trade Co., Ltd.
27. Sunny Import & Export Limited
28. Tangerine International Trading Co.
29. Weifang Chenglong Import & Export Co., Ltd.
30. Weifang He Lu Food Import & Export Co., Ltd.
31. Weifang Naike Foodstuffs Co., Ltd.
32. Weifang Shennong Foodstuff Co., Ltd.
33. XuZhou Heiners Agricultural Co., Ltd.
34. Zhengzhou Dadi Garlic Industry Co., Ltd.
35. Zhengzhou Huachao Industrial Co., Ltd.
36. Zhengzhou Xuri Import & Export Co., Ltd.
37. Zhengzhou Yuanli Trading Co., Ltd.
38. Zhong Lian Farming Product (Qingdao) Co., Ltd.

Appendix III—Companies That Have Certified No Shipments

1. Jining Yifa Garlic Produce Co., Ltd.
2. Jinxiang Richfar Fruits & Vegetables Co., Ltd.
3. Jinxiang Yuanxin Import & Export Co., Ltd.
4. Landling Qingshui Vegetable Foods Co., Ltd.
5. Qingdao Lianghe International Trade Co., Ltd.
6. Qingdao Sea-line International Trading Co.
7. Qingdao Xiangtiangfeng Foods Co., Ltd.
8. Shandong Chenhe International Tradeing Co., Ltd.
9. Shandong Jinxiang Zhengyang Import & Export Co., Ltd.
10. Shijazhuang Goodman Trading Co., Ltd.

[FR Doc. 2016–14423 Filed 6–17–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–542–801]

Certain New Pneumatic Off-the-Road Tires From Sri Lanka: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain new pneumatic off-the-road tires (off road tires) from Sri Lanka and that critical circumstances exist. The period of investigation is January 1, 2015, through December 31, 2015. Interested parties are invited to comment on this preliminary determination.

DATES: *Effective Date:* June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3874.

Alignment of Final Countervailing Duty (CVD) Determination With Final Antidumping Duty (AD) Determination

On February 3, 2016, the Department initiated this CVD investigation of off road tires from Sri Lanka.[1] On the same day, the Department also initiated antidumping duty (AD) and CVD investigations of off road tires from India.[2][3] This CVD investigation and the India AD investigation cover the same class or kind of merchandise.

On May 11, 2016, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (Act), Petitioners[4] requested alignment of the final CVD determination of off road tires from Sri Lanka with the final AD determination of off road tires from India. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination with the India final AD determination. Consequently, the final CVD determination will be issued on the same date as the India final AD determination, which is currently scheduled to be issued no later than October 25, 2016, unless postponed.

Scope of the Investigation

The scope of the investigation covers off road tires, which are tires with an off road tire size designation. For a complete description of the scope of the investigation, *see* Appendix I.

Scope Comments

Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For discussion of those comments, *see* the Preliminary Decision Memorandum.[5]

Methodology

The Department is conducting this CVD investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy (*i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient) and that the subsidy is specific.[6] For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

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[1] *See Certain New Pneumatic Off-the-Road Tires From India, the People's Republic of China, and Sri Lanka: Initiation of Countervailing Duty Investigations,* 81 FR 7067 (February 10, 2016) (*Initiation Notice*).

[2] *See Certain New Pneumatic Off-the-Road Tires From India and the People's Republic of China: Initiation of Less Than-Fair-Value Investigations,* 81 FR 7073 (February 10, 2016).

[3] At this time, the Department also initiated AD and CVD investigations of off road tires from the People's Republic of China (PRC). However, on March 1, 2016, the U.S. International Trade Commission (ITC) found that imports of off road tires from the PRC were negligible and terminated the PRC AD and CVD investigations. *See Certain New Pneumatic Off-the-Road-Tires From China, India, and Sri Lanka,* 81 FR 10663 (March 1, 2016).

[4] Petitioners in this investigation are Titan Tire Corporation and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC.

[5] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding "Decision Memorandum for the Affirmative Preliminary Determination in the Countervailing Duty Investigation of Certain New Pneumatic Off-The-Road Tires from Sri Lanka," dated concurrently with this notice (Preliminary Decision Memorandum).

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Preliminary Affirmative Determination of Critical Circumstances

On May 24, 2016, Petitioners filed a timely critical circumstances allegation, pursuant to section 703(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of off road tires from Sri Lanka.[7] We preliminarily determine that critical circumstances exist for Camso Loadstar (Private) Ltd. (Camso Loadstar) and the companies covered by the "all others" rate. For discussion of our determination, *see* the Preliminary Decision Memorandum.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a CVD rate for the individually-investigated producer/exporter of the subject merchandise. In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not investigated, we apply an "all others" rate, which is normally calculated by weighting the subsidy rates of the individually-examined respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the "all others" rate should exclude zero and *de minimis* rates or any rates based solely on the facts available calculated for the producers/exporters individually investigated. Because we individually investigated only one producer/exporter, we applied the rate calculated for that producer/exporter as the "all others" rate.

We preliminarily determine that countervailable subsidies are being provided with respect to the manufacture, production, or exportation of the subject merchandise. We preliminarily determine the countervailable subsidy rates to be:

Company	Subsidy rate (percent)
Camso Loadstar (Private), Ltd.[8]	2.90
All Others	2.90

As noted above, we preliminarily determine that critical circumstances exist for Camso Loadstar and the companies covered by the "all others" rate. Therefore, in accordance with sections 703(d)(1)(B) and 703(e)(2) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation of all entries of off road tires from Sri Lanka that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice in the **Federal Register**, and to require a cash deposit for such entries of merchandise in the amounts indicated above.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by Camso Loadstar and the Government of Sri Lanka (GOSL) prior to making our final determination.

U.S. International Trade Commission

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.[9] Case briefs may be submitted to ACCESS no later than seven days after the date on which the final verification report is issued in this proceeding. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[10]

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[11] This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the **Federal Register**.[12] Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.[13] Electronically-filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.[14]

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

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[7] *See* Letter from Petitioners, regarding Certain New Pneumatic Off-The-Road Tires from Sri Lanka—Petitioners' Critical Circumstances Allegation, dated May 24, 2016.

[8] The Department selected as its mandatory respondents in this investigation Camso Loadstar and Loadstar Private Limited (Loadstar). *See* the Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Whitley Herndon, International Trade Compliance Analyst, entitled "Respondent Selection for the Countervailing Duty Investigation of Certain New Pneumatic Off-The-Road Tires from Sri Lanka," dated February 25, 2016. However, on April 1, 2016, Camso Loadstar notified the Department that Camso Loadstar and Loadstar are not separate companies; rather, Loadstar is the previous name for Camso Loadstar. Specifically, Camso Loadstar stated that, on June 24, 2015, Loadstar changed its name to Camso Loadstar. *See* Letter from Camso Loadstar, entitled "Certain Off-the-Road Tires from Sri Lanka," dated April 1, 2016. As a result, we are assigning a cash deposit rate to Camso Loadstar because this is the name of the currently existing company. For further discussion, *see* the Preliminary Decision Memorandum.

[9] *See* 19 CFR 351.224(b).

[10] *See* 19 CFR 351.309.

[11] *See* 19 CFR 351.309(c)(2) and (d)(2).

[12] *See* 19 CFR 351.310(c).

[13] *See* 19 CFR 351.303(b)(2)(i).

[14] *See* 19 CFR 351.303(b)(1).

Dated: June 13, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The scope of this investigation is certain new pneumatic off-the-road tires (certain off road tires). Certain off road tires are tires with an off road tire size designation. The tires included in the scope may be either tube-type[15] or tubeless, radial, or non-radial, regardless of whether for original equipment manufacturers or the replacement market.

Subject tires may have the following prefix or suffix designation, which appears on the sidewall of the tire:

Prefix designations:

DH—Identifies a tire intended for agricultural and logging service which must be mounted on a DH drop center rim.

VA—Identifies a tire intended for agricultural and logging service which must be mounted on a VA multipiece rim.

IF—Identifies an agricultural tire to operate at 20 percent higher rated load than standard metric tires at the same inflation pressure.

VF—Identifies an agricultural tire to operate at 40 percent higher rated load than standard metric tires at the same inflation pressure.

Suffix designations:

ML—Mining and logging tires used in intermittent highway service.

DT—Tires primarily designed for sand and paver service.

NHS—Not for Highway Service.

TG—Tractor Grader, off-the-road tire for use on rims having bead seats with nominal +0.188″ diameter (not for highway service).

K—Compactor tire for use on 5° drop center or semi-drop center rims having bead seats with nominal minus 0.032 diameter.

IND—Drive wheel tractor tire used in industrial service.

SL—Service limited to agricultural usage.

FI—Implement tire for agricultural towed highway service.

CFO—Cyclic Field Operation.

SS—Differentiates tires for off-highway vehicles such as mini and skid-steer loaders from other tires which use similar size designations such as 7.00–15TR and 7.00–15NHS, but may use different rim bead seat configurations.

All tires marked with any of the prefixes or suffixes listed above in their sidewall markings are covered by the scope regardless of their intended use.

In addition, all tires that lack any of the prefixes or suffixes listed above in their sidewall markings are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the following sections of the Tire and Rim Association Year Book, as updated annually, unless the tire falls within one of the specific exclusions set forth below. The sections of the Tire and Rim Association Year Book listing numerical size designations of covered certain off road tires include:

The table of mining and logging tires included in the section on Truck-Bus tires;

The entire section on Off-the-Road tires;

The entire section on Agricultural tires; and

The following tables in the section on Industrial/ATV/Special Trailer tires:

- Industrial, Mining, Counterbalanced Lift Truck (Smooth Floors Only);
- Industrial and Mining (Other than Smooth Floors);
- Construction Equipment;
- Off-the-Road and Counterbalanced Lift Truck (Smooth Floors Only);
- Aerial Lift and Mobile Crane; and
- Utility Vehicle and Lawn and Garden Tractor.

Certain off road tires, whether or not mounted on wheels or rims, are included in the scope. However, if a subject tire is imported mounted on a wheel or rim, only the tire is covered by the scope. Subject merchandise includes certain off road tires produced in the subject countries whether mounted on wheels or rims in a subject country or in a third country. Certain off road tires are covered whether or not they are accompanied by other parts, *e.g.*, a wheel, rim, axle parts, bolts, nuts, etc. Certain off road tires that enter attached to a vehicle are not covered by the scope.

Specifically excluded from the scope are passenger vehicle and light truck tires, racing tires, mobile home tires, motorcycle tires, all-terrain vehicle tires, bicycle tires, on-road or on-highway trailer tires, and truck and bus tires. Such tires generally have in common that the symbol "DOT" must appear on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Such excluded tires may also have the following prefixes and suffixes included as part of the size designation on their sidewalls:

Prefix letter designations:

AT—Identifies a tire intended for service on All-Terrain Vehicles;

P—Identifies a tire intended primarily for service on passenger cars;

LT—Identifies a tire intended primarily for service on light trucks;

T—Identifies a tire intended for one-position "temporary use" as a spare only; and

ST—Identifies a special tire for trailers in highway service.

Suffix letter designations:

TR—Identifies a tire for service on trucks, buses, and other vehicles with rims having specified rim diameter of nominal plus 0.156″ or plus 0.250″;

MH—Identifies tires for Mobile Homes;

HC—Identifies a heavy duty tire designated for use on "HC" 15″ tapered rims used on trucks, buses, and other vehicles. This suffix is intended to differentiate among tires for light trucks, and other vehicles or other services, which use a similar designation.

Example: 8R17.5 LT, 8R17.5 HC;

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service;

ST—Special tires for trailers in highway service; and

M/C—Identifies tires and rims for motorcycles.

The following types of tires are also excluded from the scope: Pneumatic tires that are not new, including recycled or retreaded tires and used tires; non-pneumatic tires, including solid rubber tires; aircraft tires; and turf, lawn and garden, and golf tires. Also excluded from the scope are mining and construction tires that have a rim diameter equal to or exceeding 39 inches. Such tires may be distinguished from other tires of similar size by the number of plies that the construction and mining tires contain (minimum of 16) and the weight of such tires (minimum 1500 pounds).

The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.20.1025, 4011.20.1035, 4011.20.5030, 4011.20.5050, 4011.61.0000, 4011.62.0000, 4011.63.0000, 4011.69.0050, 4011.92.0000, 4011.93.4000, 4011.93.8000, 4011.94.4000, 4011.94.8000, 8431.49.9038, 8431.49.9090, 8709.90.0020, and 8716.90.1020. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.4550, 4011.99.8550, 8424.90.9080, 8431.20.0000, 8431.39.0010, 8431.49.1090, 8431.49.9030, 8432.90.0005, 8432.90.0015, 8432.90.0030, 8432.90.0080, 8433.90.5010, 8503.00.9560, 8708.70.0500, 8708.70.2500, 8708.70.4530, 8716.90.5035 and 8716.90.5055. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Critical Circumstances
VI. Injury Test
VII. Subsidies Valuation
VIII. Analysis of Programs
IX. ITC Notification
X. Verification
XI. Conclusion

[FR Doc. 2016–14538 Filed 6–17–16; 8:45 am]

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[15] While tube-type tires are subject to the scope of this proceeding, tubes and flaps are not subject merchandise and therefore are not covered by the scope of this proceeding, regardless of the manner in which they are sold (*e.g.*, sold with or separately from subject merchandise).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–870]

Certain New Pneumatic Off-the-Road Tires From India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain new pneumatic off-the-road tires (off road tires) from India. The period of investigation is January 1, 2015, through December 31, 2015. Interested parties are invited to comment on this preliminary determination.

DATES: Effective Date: June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Spencer Toubia, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0123.

Alignment of Final Countervailing Duty (CVD) Determination With Final Antidumping Duty (AD) Determination

On the same day the Department initiated this CVD investigation, the Department also initiated an AD investigation of off road tires from India and a CVD investigation of off road tires from Sri Lanka.[1] [2] This CVD, the India AD, and the Sri Lanka CVD investigations cover the same merchandise.

On May 11, 2016, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (Act), Petitioners[3] requested alignment of the final CVD determinations of off road tires from India and Sri Lanka with the final AD determination of off road tires from India. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determinations with the final India AD determination. Consequently, the final CVD determinations will be issued on the same date as the final India AD determination, which is currently scheduled to be issued no later than October 25, 2016.

Scope of the Investigation

The scope of the investigation covers off road tires, which are tires with an off road tire size designation. For a complete description of the scope of the investigation, *see* Appendix I.

Scope Comments

Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For discussion of those comments, *see* the Preliminary Decision Memorandum.[4]

Methodology

The Department is conducting this CVD investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy (*i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient) and that the subsidy is specific.[5] For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Preliminary Determination of Critical Circumstances, in Part

In accordance with section 703(e)(1) of the Act, we preliminarily find that critical circumstances exist with respect to imports of off road tires from India for all other exporters or producers not individually examined. A discussion of our determination can be found in the Preliminary Decision Memorandum.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a CVD rate for each individually-investigated producer/exporter of the subject merchandise. We preliminarily determine that countervailable subsidies are being provided with respect to the manufacture, production, or exportation of the subject merchandise. In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not individually examined, we apply an "all-others" rate, which is normally calculated by weighting the subsidy rates of the individual companies as respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate should exclude zero and *de minimis* rates or any rates based entirely on facts otherwise available pursuant to section 776 of the Act. Neither of the mandatory respondents' rates in this preliminary determination were zero or *de minimis* or based entirely on facts otherwise available. Accordingly, in this preliminary determination, we have calculated the "all-others" rate by weight averaging the calculated subsidy rates of the two individually investigated respondents. In order to ensure that business proprietary information is not disclosed through the all-others rate, we have used the respondent's publicly-ranged sales data for exports of subject merchandise to the United States.[6]

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[1] *See Certain New Pneumatic Off-the-Road Tires From India, the People's Republic of China, and Sri Lanka: Initiation of Countervailing Duty Investigations,* 81 FR 7067 (February 10, 2016) (*Initiation Notice*). *See also Certain New Pneumatic Off-the-Road Tires From India and the People's Republic of China: Initiation of Less Than-Fair-Value Investigations,* 81 FR 7073 (February 10, 2016).

[2] At this time, the Department also initiated AD and CVD investigations of off road tires from the People's Republic of China (PRC). However, on March 1, 2016, the U.S. International Trade Commission (ITC) found that imports of off road tires from the PRC were negligible and terminated the PRC AD and CVD investigations. *See Certain New Pneumatic Off-the-Road-Tires From China, India, and Sri Lanka,* 81 FR 10663 (March 1, 2016).

[3] Petitioners in this investigation are Titan Tire Corporation and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC.

[4] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding "Certain New Pneumatic Off-the-Road Tires from India: Preliminary Affirmative Countervailing Duty Determination Decision Memorandum," dated concurrently with this notice (Preliminary Decision Memorandum).

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[6] *See* Preliminary Decision Memorandum at "CALCULATION OF THE ALL-OTHERS RATE" (for further explanation of the business proprietary information concerns); *see also* Memorandum to the File, "Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires from India:

Continued

We preliminarily determine the countervailable subsidy rates to be:

Company	Subsidy rate (percent)
ATC Tires Private Limited	7.64
Balkrishna Industries Limited[7]	4.70
All-Others	6.17

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of off road tires from India that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit for such entries of merchandise in the amounts indicated above. Moreover, because we preliminarily find critical circumstances exist with respect to all other exporters or producers not individually examined, in accordance with section 703(e)(2)(A) of the Act, we are directing CBP to apply the suspension of liquidation to any unliquidated entries entered, or withdrawn from warehouse for consumption by these companies, on or after the date which is 90 days prior to the date of publication of this notice in the **Federal Register**.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by the respondents prior to making our final determination.

U.S. International Trade Commission

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

The Department intends to disclose calculations performed for this preliminary determination to the parties within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[8] A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department, pursuant to 19 CFR 351.309(c)(2) and (d)(2). This summary should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically-filed request must be received successfully, and in its entirety, by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date, time, and specific location to be determined. Parties will be notified of the date, time, and location of any hearing. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: June 13, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation is certain new pneumatic off-the-road tires (certain off road tires). Certain off road tires are tires with an off road tire size designation. The tires included in the scope may be either tube-type[9] or tubeless, radial, or non-radial, regardless of whether for original equipment manufacturers or the replacement market.

Subject tires may have the following prefix or suffix designation, which appears on the sidewall of the tire:

Prefix designations:

DH—Identifies a tire intended for agricultural and logging service which must be mounted on a DH drop center rim.
VA—Identifies a tire intended for agricultural and logging service which must be mounted on a VA multipiece rim.
IF—Identifies an agricultural tire to operate at 20 percent higher rated load than standard metric tires at the same inflation pressure.
VF—Identifies an agricultural tire to operate at 40 percent higher rated load than standard metric tires at the same inflation pressure.

Suffix designations:

ML—Mining and logging tires used in intermittent highway service.
DT—Tires primarily designed for sand and paver service.
NHS—Not for Highway Service.
TG—Tractor Grader, off-the-road tire for use on rims having bead seats with nominal +0.188" diameter (not for highway service).
K—Compactor tire for use on 5° drop center or semi-drop center rims having bead seats with nominal minus 0.032 diameter.
IND—Drive wheel tractor tire used in industrial service.
SL—Service limited to agricultural usage.
FI—Implement tire for agricultural towed highway service.
CFO—Cyclic Field Operation.
SS—Differentiates tires for off-highway vehicles such as mini and skid-steer loaders from other tires which use similar size designations such as 7.00–15TR and 7.00–15NHS, but may use different rim bead seat configurations.

All tires marked with any of the prefixes or suffixes listed above in their sidewall markings are covered by the scope regardless of their intended use.

Preliminary Determination Margin Calculation for All-Others," dated concurrently with this memorandum.

[7] The Department selected as its mandatory respondents in this investigation ATC Tires Private Limited and Balkrishna Industries Limited. *See* Department Memorandum, "Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires from India: Respondent Selection," dated February 24, 2016 (Respondent Selection Memorandum). On April 8, 2016, TVS Srichakra Ltd. (TVS) submitted voluntary responses to our Initial Questionnaire. *See* Letter from TVS, "Countervailing Duty Investigation on Imports of Certain New Pneumatic Off-the-Road Tires from India -Questionnaire Response," dated April 8, 2016. On May 4, 2016, we determined that we did not have the resources to select to select TVS as a voluntary respondent because to do so would be unduly burdensome and would inhibit the timely completion of this investigation. Therefore, we have not analyzed any voluntary responses. *See* Department Memorandum, "Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires from India: Selection of an Additional Respondent," dated May 4, 2016.

[8] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[9] While tube-type tires are subject to the scope of this proceeding, tubes and flaps are not subject merchandise and therefore are not covered by the scope of this proceeding, regardless of the manner in which they are sold (*e.g.*, sold with or separately from subject merchandise).

In addition, all tires that lack any of the prefixes or suffixes listed above in their sidewall markings are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the following sections of the Tire and Rim Association Year Book, as updated annually, unless the tire falls within one of the specific exclusions set forth below. The sections of the Tire and Rim Association Year Book listing numerical size designations of covered certain off road tires include:

The table of mining and logging tires included in the section on Truck-Bus tires;

The entire section on Off-the-Road tires;

The entire section on Agricultural tires; and

The following tables in the section on Industrial/ATV/Special Trailer tires:

- Industrial, Mining, Counterbalanced Lift Truck (Smooth Floors Only);
- Industrial and Mining (Other than Smooth Floors);
- Construction Equipment;
- Off-the-Road and Counterbalanced Lift Truck (Smooth Floors Only);
- Aerial Lift and Mobile Crane; and
- Utility Vehicle and Lawn and Garden Tractor.

Certain off road tires, whether or not mounted on wheels or rims, are included in the scope. However, if a subject tire is imported mounted on a wheel or rim, only the tire is covered by the scope. Subject merchandise includes certain off road tires produced in the subject countries whether mounted on wheels or rims in a subject country or in a third country. Certain off road tires are covered whether or not they are accompanied by other parts, *e.g.*, a wheel, rim, axle parts, bolts, nuts, etc. Certain off road tires that enter attached to a vehicle are not covered by the scope.

Specifically excluded from the scope are passenger vehicle and light truck tires, racing tires, mobile home tires, motorcycle tires, all-terrain vehicle tires, bicycle tires, on-road or on-highway trailer tires, and truck and bus tires. Such tires generally have in common that the symbol "DOT" must appear on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Such excluded tires may also have the following prefixes and suffixes included as part of the size designation on their sidewalls:

Prefix letter designations:

AT—Identifies a tire intended for service on All-Terrain Vehicles;
P—Identifies a tire intended primarily for service on passenger cars;
LT—Identifies a tire intended primarily for service on light trucks;
T—Identifies a tire intended for one-position "temporary use" as a spare only; and
ST—Identifies a special tire for trailers in highway service.

Suffix letter designations:

TR—Identifies a tire for service on trucks, buses, and other vehicles with rims having specified rim diameter of nominal plus 0.156″ or plus 0.250″;
MH—Identifies tires for Mobile Homes;
HC—Identifies a heavy duty tire designated for use on "HC" 15″ tapered rims used on trucks, buses, and other vehicles. This suffix is intended to differentiate among tires for light trucks, and other vehicles or other services, which use a similar designation.

Example: 8R17.5 LT, 8R17.5 HC;

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service;
ST—Special tires for trailers in highway service; and
M/C—Identifies tires and rims for motorcycles.

The following types of tires are also excluded from the scope: Pneumatic tires that are not new, including recycled or retreaded tires and used tires; non-pneumatic tires, including solid rubber tires; aircraft tires; and turf, lawn and garden, and golf tires. Also excluded from the scope are mining and construction tires that have a rim diameter equal to or exceeding 39 inches. Such tires may be distinguished from other tires of similar size by the number of plies that the construction and mining tires contain (minimum of 16) and the weight of such tires (minimum 1500 pounds).

The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.20.1025, 4011.20.1035, 4011.20.5030, 4011.20.5050, 4011.61.0000, 4011.62.0000, 4011.63.0000, 4011.69.0050, 4011.92.0000, 4011.93.4000, 4011.93.8000, 4011.94.4000, 4011.94.8000, 8431.49.9038, 8431.49.9090, 8709.90.0020, and 8716.90.1020. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.4550, 4011.99.8550, 8424.90.9080, 8431.20.0000, 8431.39.0010, 8431.49.1090, 8431.49.9030, 8432.90.0005, 8432.90.0015, 8432.90.0030, 8432.90.0080, 8433.90.5010, 8503.00.9560, 8708.70.0500, 8708.70.2500, 8708.70.4530, 8716.90.5035 and 8716.90.5055. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Critical Circumstances
VI. Injury Test
VII. Subsidies Valuation
VIII. Loan Benchmark and Interest Rates
IX. Analysis of Programs
X. Calculation of All-Others Rate
XI. ITC Notification
XII. Disclosure and Public Comment
XIII. Conclusion

[FR Doc. 2016–14537 Filed 6–17–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On December 28, 2015, the Department of Commerce (the "Department") published its preliminary results in the 2013–2014 administrative review of the antidumping duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules ("solar cells"), from the People's Republic of China ("PRC").[1] The period of review ("POR") is December 1, 2013, through November 30, 2014. This administrative review covers two mandatory respondents: (1) The collapsed entity Yingli[2] and (2) the collapsed entity Trina.[3] Based on our analysis of the

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[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2013–2014*, 80 FR 80746 (December 28, 2015) ("*Preliminary Results*"), and accompanying Preliminary Decision Memorandum ("PDM").

[2] In these final results of review, the Department has continued to treat the mandatory respondent Yingli Energy (China) Company Limited and the following eight companies as a single entity: (1) Baoding Tianwei Yingli New Energy Resources Co., Ltd.; (2) Tianjin Yingli New Energy Resources Co., Ltd.; (3) Hengshui Yingli New Energy Resources Co., Ltd.; (4) Lixian Yingli New Energy Resources Co., Ltd.; (5) Baoding Jiasheng Photovoltaic Technology Co., Ltd.; (6) Beijing Tianneng Yingli New Energy Resources Co., Ltd.; (7) Hainan Yingli New Energy Resources Co., Ltd.; (8) Shenzhen Yingli New Energy Resources Co., Ltd. (collectively "Yingli"). *See Preliminary Results*, 80 FR at 80746, and PDM at 6–8; *see also* the December 18, 2015 memorandum from Jeff Pedersen International Trade Analyst, AD/CVD Operations, Office IV to Abdelali Elouaradia Director AD/CVD Operations, Office IV, concerning affiliation and single entity status.

[3] In these final results of review, the Department has continued to treat the mandatory respondent Changzhou Trina Solar Energy Co., Ltd. and Trina Solar (Changzhou) Science & Technology Co., Ltd. and the following four companies as a single entity: (1) Yancheng Trina Solar Energy Technology Co., Ltd.; (2) Changzhou Trina Solar Yabang Energy Co., Ltd.; (3) Turpan Trina Solar Energy Co., Ltd.; (4) Hubei Trina Solar Energy Co., Ltd. (collectively "Trina"). *See Preliminary Results*, 80 FR at 80746, and PDM; *see also* the December 18, 2015 memorandum from Thomas Martin International Trade Analyst, AD/CVD Operations, Office IV to Abdelali Elouaradia Director AD/CVD Operations, Office IV concerning affiliation and single entity status.

comments received, we made certain changes to our margin calculations for Yingli and Trina. The final dumping margins for this review are listed in the "Final Results" section below.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen and Thomas Martin, AD/CVD Operations, Office IV, Enforcement & Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2769 or (202) 482–3936, respectively.

Background

On December 28, 2015, the Department published its *Preliminary Results* in this review. On January 27, 2016, SolarWorld Americas Inc. ("Petitioner"), Yingli, and Trina requested a hearing. On February 2, 2016, Petitioner, Yingli, and Trina submitted case briefs.[4] On February 10, 2016, Petitioner, Yingli, and Trina submitted rebuttal briefs.[5] On March 4, 2016, Yingli and Trina withdrew their requests for a hearing.[6] On March 9, 2016, Petitioner withdrew its request for a hearing.[7] Thus, there are no outstanding hearing requests. On January 27, 2016, the Department tolled all administrative deadlines as a result of the government closure due to Snowstorm "Jonas." [8] Subsequently, the Department extended the deadline for the final results of this review until June 13, 2016.[9]

Scope of the Order

The merchandise covered by the order is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.[10] Merchandise covered by this review is classifiable under subheading 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum,[11] which is hereby adopted by this notice. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at *https://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/*. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* and for the reasons explained in the Issues and Decision Memorandum, we made the following revisions to our preliminary calculations of the weighted-average dumping margins for Trina and Yingli:

Changes Specific to Trina

- Revised surrogate value choices for certain direct materials, material offsets, and movement expenses.
- Revised the imputed credit expense calculation.
- Revised the warranty expense calculation.
- Revised the calculation of domestic inland insurance and marine insurance expenses.

Changes Specific to Yingli

- Revised surrogate value choices for certain direct materials and movement expenses.
- Corrected a conversion error.

Final Determination of No Shipments

In the *Preliminary Results,* we found that Jiangsu Sunlink PV Technology Co., Ltd. and Shanghai JA Solar Technology Co., Ltd. each had no shipments during the POR.[12] We did not receive any comments concerning our finding of no shipments by these two companies. For these final results, the Department continues to find that Jiangsu Sunlink PV Technology Co., Ltd. and Shanghai JA Solar Technology Co., Ltd. did not have any reviewable transactions of subject merchandise during the POR.

Separate Rates

In the *Preliminary Results,* the Department determined that Trina, Yingli, and 15 other separate rate applicants ("separate rate respondents"),[13] had demonstrated their eligibility for separate rates [14] but determined to treat six other companies [15] subject to this review as part of the PRC-wide entity because they did not establish their eligibility to receive a separate rate.[16] Since the *Preliminary Results,* the Department has not received any comments that would warrant a review of our preliminary separate rate determinations regarding these companies. Therefore, we continue to find that these 15 separate rate respondents are eligible for a separate rate while the other six companies are not, and thus these six companies are part of the PRC-wide entity. The Department assigned a weighted-average dumping margin to the separate rate companies that it did not individually examine, but which demonstrated their eligibility for a separate rate, based on the mandatory respondent's dumping margins as explained in the memorandum to the file regarding "Calculation of the Final Dumping Margin for Separate Rate Recipients" dated concurrently with this notice.[17]

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[4] *See* Letters to the Department from Petitioner, "Solar World Americas, Inc.'s Case Brief," Yingli "Yingli's Case Brief," and Trina "Trina's Case Brief," all dated February 2, 2016.

[5] *See* Letters to the Department from Petitioner, "Solar World Americas, Inc.'s Rebuttal Brief," Yingli "Yingli's Rebuttal Brief," and Trina "Trina's Rebuttal Brief," all dated February 10, 2016.

[6] *See* Letters to the Department from Yingli "Withdrawal of Yingli's Hearing Request," and Trina "Withdrawal of Hearing Request," both dated March 4, 2016.

[7] *See* Letter to the Department from Petitioner, "Withdrawal of Request for Hearing," dated March 9, 2016.

[8] *See* January 27, 2016, memorandum to the record from Ron Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, entitled "Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm 'Jonas'."

[9] *See* April 26, 2016 and May 26, 2016 memoranda from Jeff Pedersen, Senior International Trade Compliance Analyst, Office IV, Antidumping and Countervailing Duty Operations to Christian Marsh Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations concerning extensions of the deadline for these final results of review.

[10] For a complete description of the scope of the order, *see* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for the Final Results of the 2013–2014 Antidumping Duty Administrative Review of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China," ("Issues and Decision Memorandum"), dated concurrently with this notice.

[11] *See* Issues and Decision Memorandum.

[12] *See Preliminary Results,* 80 FR at 80746, and PDM at 5–6.

[13] These companies are: (1) Yingli; (2) Trina; (3) BYD (Shangluo) Industrial Co., Ltd.; (4) Dongguan Sunworth Solar Energy Co., Ltd.; (5) ERA Solar Co., Ltd.; (6) Jiangsu High Hope Int'l Group; (7) Ningbo Qixin Solar Electrical Appliance Co., Ltd.; (8) Shanghai BYD Co., Ltd.; (9) Shenzhen Glory Industries Co., Ltd. (10) Shenzhen Topray Solar Co., Ltd.; (11) Wuxi Suntech Power Co., Ltd./Luoyang Suntech Power Co., Ltd.; (12) Canadian Solar International Limited; (13) Canadian Solar Manufacturing (Changshu) Inc.; (14) Canadian Solar Manufacturing (Luoyang) Inc.; (15) ET Solar Energy Limited; (16) JA Solar Technology Yangzhou Co., Ltd.; and (17) JingAo Solar Co., Ltd.

[14] *See* PDM at 10–12.

[15] These companies are: (1) Canadian Solar Inc.; (2) ET Solar Industry Limited; (3) MS Solar Investments LLC; (4) Yingli Green Energy Americas, Inc.; (5) Yingli Green Energy Holding Co., Ltd.; and (6) Yingli Green Energy International Trading Company Limited.

[16] *See* PDM at 10–15.

Final Results

We determine that the following weighted-average dumping margins exist for the POR:

Exporter	Weighted-average dumping margin (percent)
Yingli Energy (China) Company Limited/Baoding Tianwei Yingli New Energy Resources Co., Ltd./Tianjin Yingli New Energy Resources Co., Ltd./Hengshui Yingli New Energy Resources Co., Ltd./Lixian Yingli New Energy Resources Co., Ltd./Baoding Jiasheng Photovoltaic Technology Co., Ltd./Beijing Tianneng Yingli New Energy Resources Co., Ltd./Hainan Yingli New Energy Resources Co., Ltd./Shenzhen Yingli New Energy Resources Co., Ltd	12.19
Changzhou Trina Solar Energy Co., Ltd./Trina Solar (Changzhou) Science and Technology Co., Ltd./Yancheng Trina Solar Energy Technology Co., Ltd./Changzhou Trina Solar Yabang Energy Co., Ltd./Turpan Trina Solar Energy Co., Ltd./Hubei Trina Solar Energy Co., Ltd	6.12
BYD (Shangluo) Industrial Co., Ltd	8.52
Canadian Solar International Limited	8.52
Canadian Solar Manufacturing (Changshu) Inc	8.52
Canadian Solar Manufacturing (Luoyang) Inc	8.52
Dongguan Sunworth Solar Energy Co., Ltd	8.52
ERA Solar Co., Ltd	8.52
ET Solar Energy Limited	8.52
JA Solar Technology Yangzhou Co., Ltd	8.52
Jiangsu High Hope Int'l Group	8.52
JingAo Solar Co., Ltd	8.52
Ningbo Qixin Solar Electrical Appliance Co., Ltd	8.52
Shanghai BYD Co., Ltd	8.52
Shenzhen Glory Industries Co., Ltd	8.52
Shenzhen Topray Solar Co., Ltd	8.52
Wuxi Suntech Power Co., Ltd./Luoyang Suntech Power Co., Ltd	8.52

Disclosure

We intend to disclose the calculations performed for these final results of review within five days of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Assessment Rates

The Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of these final results of this review. In accordance with 19 CFR 351.212(b)(1), we are calculating importer- (or customer-) specific assessment rates for the merchandise subject to this review. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), the Department will calculate importer- (or customer)-specific assessment rates for merchandise subject to this review. Where the respondent reported reliable entered values, the Department calculated importer- (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to the importer- (or customer) and dividing this amount by the total entered value of the sales to the importer- (or customer).[18] Where the Department calculated an importer- (or customer)-specific weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to the importer- (or customer) by the total sales quantity associated with those transactions, the Department will direct CBP to assess importer- (or customer)-specific assessment rates based on the resulting per-unit rates.[19] Where an importer- (or customer)-specific ad valorem or per-unit rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's weighted average dumping margin is zero or *de minimis,* or an importer (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[20]

For merchandise that was not reported in the U.S. sales database submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.,* at the individually-examined exporter's cash deposit rate), the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the PRC-wide rate.[21]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse,

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[17] *See* Memorandum to the File, from Jeff Pedersen through Howard Smith, Program Manager, AD/CVD Operations, Office IV, "Calculation of the Final Margin for Separate Rate Recipients," dated concurrently with this notice.

[18] *See* 19 CFR 351.212(b)(1).

[19] *Id.*

[20] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[21] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

for consumption on or after the publication date of this notice in the **Federal Register**, as provided by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate listed for each exporter in the table in the "Final Results" section of this notice; (2) for previously investigated PRC and non-PRC exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate previously established for the PRC-wide entity (*i.e.*, 238.95 percent);[22] and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order ("APO")

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing these final results of administrative review and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: June 13, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Issues and Decision Memorandum

Summary
Background
Scope of the Order

Discussion of the Issues

Comment 1: Surrogate Country
Comment 2: Conversion of the Market Economy Price for Wafers
Comment 3: Valuation of "Unclassified Stores" of Polysilicon
Comment 4: Valuation of Brokerage and Handling in Doing Business in Thailand
Comment 5: Whether the Department should adjust the brokerage and handling SV used for Trina in the Preliminary Results
Comment 6: Calculation of Surrogate Labor Value
Comment 7: Surrogate Value for Aluminum Angle Keys
Comment 8: Surrogate Value for Aluminum Frames
Comment 9: Differential Pricing
Comment 10: Valuing Tempered Glass
Comment 11: Surrogate Value for Junction Boxes
Comment 12: Financial Statements
Comment 13: Surrogate Value for Semi-finished Polysilicon Ingots and Blocks
Comment 14: Surrogate Value for Backsheets
Comment 15: World Cup Sponsorship
Comment 16: Data Source to use to Value Polysilicon and Wafers
Comment 17: Calculation of Scrap for Waste Cells and Modules
Comment 18: Whether the Department applied the correct surrogate value to Trina's silver paste
Comment 19: Whether the Department should apply partial AFA to Trina's unreported factors of production for purchased solar cells
Comment 20: Whether the Department erroneously valued certain overhead items as direct materials
Comment 21: Whether the Department applied the correct surrogate value to nitrogen
Comment 22: Whether the Department should not include import data with zero quantities in the average unit SV calculation
Comment 23: Whether the Department should revise the SV for brokerage and handling
Comment 24: Whether the Department should revise Trina's credit expenses and inventory carrying costs
Comment 25: Whether the Department should revise Trina's warranty expenses when calculating CEP
Comment 26: Whether the Department should revise Trina's insurance expenses

[FR Doc. 2016–14532 Filed 6–17–16; 8:45 am]

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[22] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2012–2013*, 80 FR 40998, 41002 (July 14, 2015).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On December 8, 2015, the Department of Commerce (the Department) published the *Preliminary Results* of its administrative review of the antidumping duty order on circular welded non-alloy steel pipe (CWP) from the Republic of Korea (Korea) for the period November 1, 2013, through October 31, 2014.[1] The review covers three producers/exporters of the subject merchandise: Husteel Co., Ltd. (Husteel), Hyundai HYSCO (HYSCO), and SeAH Steel Corporation (SeAH). For these final results, we continue to find that Husteel and HYSCO sold subject merchandise at below normal value. We also determine that SeAH did not make sales of subject merchandise at below normal value.

DATES: *Effective Date:* June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Joseph Shuler, Jennifer Meek, or Lana Nigro, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1293, (202) 482–2778, or (202) 482–1779, respectively.

Background

Following the *Preliminary Results*, the Department sent a supplemental questionnaire to SeAH and received a timely response.[2]

On January 4 and January 20, 2016, the Department extended the briefing schedule.[3] On April 5, 2016, the

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[1] *See Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2013–2014*, 80 FR 76267 (December 8, 2015) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

[2] *See* Letter to SeAH, "Antidumping Duty Administrative Review of Circular Welding Non-Alloy Steel Pipe from the Republic of Korea: Supplemental Questionnaire," (December 18, 2015); *see also* Letter from SeAH, "Administrative Review of the Antidumping Order on Circular Welded Non-Alloy Steel Pipe from Korea for the 2013–2014 Review Period—Response to December 18 Supplemental Questionnaire," (December 28, 2015).

[3] *See* Memorandum to the File, "Extension of the Briefing Schedule," (January 4, 2016) and Memorandum to all interested parties, "Second Extension of the Briefing Schedule," (January 20,

Department issued a memorandum extending the time period for issuing the final results of this administrative review by 60 days, from April 12, 2016 to June 10, 2016, as permitted by section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213(h)(2).[4]

On January 7, 2016, Husteel and HYSCO both requested a hearing. These requests were subsequently withdrawn.[5] On February 3, 2016, we received case briefs from JMC Steel Group (JMC) and Allied Tube and Conduit (Allied) (the petitioners), Husteel, HYSCO, and SeAH.[6] On February 12, 2015, we received rebuttal briefs from the petitioners, SeAH, and HYSCO.[7]

Scope of the Order

The merchandise subject to the order is circular welded non-alloy steel pipe and tube. The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

A full description of the scope of the order is contained in the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: 2013–2014," dated concurrently with this notice (Issues and Decision Memorandum), and which is hereby adopted by this notice.

Analysis of Comments Received

All issues raised in the parties' briefs are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov*, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://trade.gov/enforcement*. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes From the Preliminary Results

Based on our analysis of the comments received from interested parties, we have made certain changes for SeAH since the *Preliminary Results*. For home market sales that SeAH identified as consignment sales, in accordance with the Department's practice, we have used the date the customer withdrew the merchandise from consignment inventory as the appropriate date of sale. For all remaining sales we continue to follow our practice as described in the *Preliminary Results*. Additionally, we have recalculated inventory carrying costs for direct shipment CEP sales based on the inventory period from factory production to shipment to the U.S. customer.[8]

Final Results of the Review

As a result of this review, we determine that the following weighted-average dumping margins exist for the period November 1, 2013 through October 31, 2014:

Producer/Exporter	Weighted-average dumping margin (percent)
Husteel Co., Ltd	1.42
Hyundai HYSCO	1.62
SeAH Steel Corporation	0.00

Disclosure

We will disclose the calculations used in our analysis to parties to these proceedings within five days of the date of publication of this notice pursuant to 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) and (C) of the Act, and 19 CFR 351.212(b)(1), the Department has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

For assessment purposes, Husteel, HYSCO, and SeAH reported the name of the importer of record and the entered value for all of their sales to the United States during the period of review (POR). Accordingly, for each respondent, we calculated importer-specific *ad valorem* antidumping duty assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Where an importer-specific assessment rate is zero or *de minimis* (*i.e.*, less than 0.5 percent), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties in accordance with 19 CFR 351.106(c)(2).

For entries of subject merchandise during the POR produced by Husteel, HYSCO, and SeAH which they did not know were destined for the United States, we will instruct CBP to liquidate

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2016); we also extended the deadline to submit rebuttal briefs. *See* memorandum to all interested parties, "Extension of the Deadline to submit Rebuttal Briefs," (February 5, 2016).

[4] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations entitled "Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review," (April 5, 2016).

[5] *See* Letter from Hyundai Steel Company, "Administrative Review of Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Request for Public Hearing," (January 7, 2016); *see also* Letter from Husteel, "Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, Case No. A–580–809: Request for Hearing," (January 7, 2016); and the withdrawal requests, see *See* Letter from Hyundai Steel Company, "Administrative Review of Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Withdrawal of Request for Hearing," (February 22, 2016); *see also* Letter from Husteel, "Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, 11/1/2014–10/31/2014 Administrative Review, Case No. A–580–809: Withdrawal of Request for Hearing," (February 19, 2016).

[6] *See* Case Brief of the Petitioners, "Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Case Brief," (February 3, 2016); *see also* Case Brief of Husteel, "Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, Case No. A–580–809: Case Brief," (February 3, 2016); Case Brief of HYSCO, "Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Case Brief," (February 3, 2016); Case Brief of SeAH, "Administrative Review of the Antidumping Order on Circular Welded Non-Alloy Steel Pipe from Korea for the 2013–2014 Review Period—Case Brief," (February 3, 2016).

[7] *See* Rebuttal Brief of the petitioners, "Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Rebuttal Brief," (February 12, 2016), and *see* Rebuttal Brief from Hundai HYSCO, "Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Rebuttal Brief," (February 12, 2016); *see also* Rebuttal Brief from SeAH, "Administrative Review of the Antidumping Order on Circular Welded Non-Alloy Steel Pipe from Korea for the 2013–2014 Review Period—Rebuttal Brief," (February 12, 2016).

[8] For a discussion of these changes, see the accompanying Issues and Decision Memorandum at Comment 7 and SeAH's Final Determination Calculation Memorandum dated concurrently with this **Federal Register** notice.

unreviewed entries at the all-others rate if there is no rate for the intermediate company or companies involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered or withdrawn from warehouse, for consumption, on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Husteel, HYSCO, and SeAH will be equal to the respective weighted-average dumping margins established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review, but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 4.80 percent, the "all others" rate established pursuant to a court decision.[9] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 10, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Issues Discussed in the Issues and Decision Memorandum

Summary
Background
Changes Since the *Preliminary Results*
List of Comments
Scope of the Order
Discussion of the Issues
  Comment 1: Whether the *Cohen's d* Test Measures "Targeted" or Masked Dumping
  Comment 2: Whether the Ratio Test Is Arbitrary and Whether the "Meaningful Difference Requirement" Was Satisfied
  Comment 3: Whether Consideration of an Alternative Comparison Method Is Permitted in Administrative Reviews
  Comment 4: Whether the Mixed Methodology Leads to Zeroing
  Comment 5: The Appropriate Universe of HYSCO's Home Market Sales
  Comment 6: Whether Certain HYSCO Sales Are Outside the Ordinary Course of Trade
  Comment 7: SeAH's Reported Credit Expense for Back-to-Back U.S. Sales
  Comment 8: Whether To Use SeAH's Reported Nominal Outside Diameter
  Comment 9: Husteel's Cost Reallocation
  Comment 10: HYSCO's Cost Reallocation
  Comment 11: SeAH's Cost Reallocation
  Comment 12: Whether To Assign HYSCO's
Cash Deposit Rate to Hyundai Steel
Recommendation

[FR Doc. 2016–14425 Filed 6–17–16; 8:45 am]

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[9] *See Circular Welded Non-Alloy Steel Pipe From Korea: Notice of Final Court Decision and Amended Final Determination*, 60 FR 55833 (November 3, 1995).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–038]

Certain Amorphous Silica Fabric From the People's Republic of China: Postponement of Preliminary Determination of the Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Scott Hoefke at (202) 482–4947 or Mike Heaney at (202) 482–4475, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 16, 2016, the Department of Commerce (the Department) initiated an antidumping duty investigation on certain amorphous silica fabric from the People's Republic of China.[1] The notice of initiation stated that the Department, in accordance with section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(b)(1), would issue its preliminary determination for this investigation, unless postponed, no later than 140 days after the date of the initiation. The deadline for the preliminary determination of this antidumping duty investigation is currently July 5, 2016.

Postponement of the Preliminary Determination

Section 733(c)(1)(A) of the Act permits the Department to postpone the time limit for the preliminary determination if it receives a timely request from the petitioner for postponement. The Department may postpone the preliminary determination under section 733(c)(1) of the Act until no later than 190 days after the date on which the Department initiates an investigation.

On June 1, 2016, Auburn Manufacturing, Inc. (the Petitioner) submitted a timely request pursuant to section 733(c)(1) of the Act and 19 CFR 351.205(e) for a 50-day postponement of the preliminary determination in this investigation.[2] The petitioner stated that a postponement is necessary for the Department to conduct a complete and thorough analysis. The petitioner further stated that a postponement is needed to allow time to address the various deficiencies in the questionnaire responses submitted in this case. The petitioner submitted its request more than 25 days before the scheduled date of the preliminary determination.[3]

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[1] *See Certain Amorphous Silica Fabric from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 8913 (February 23, 2016).

[2] *See* Letter from Petitioner, "Certain Amorphous Silica Fabric from the People's Republic of China:

For the reasons stated above, and because there are no compelling reasons to deny the petitioner's request, the Department is postponing the preliminary determination in this investigation in accordance with section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2) by 50 days until August 24, 2016.

The deadline for the final determination will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(1) of the Act and 19 CFR 351.205(f)(1).

Dated: June 13, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–14535 Filed 6–17–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE673

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare an Environmental Impact Statement; request for comments.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), this notice announces that NMFS intends to obtain information necessary to prepare an Environmental Impact Statement (EIS) for 11 Hatchery and Genetic Management Plans (HGMPs) for salmon hatchery programs jointly submitted by the Washington Department of Fish and Wildlife (WDFW), the Lummi Nation, the Nooksack Indian Tribe, the Upper Skagit Indian Tribe, and the Swinomish Indian Tribal Community (referred to as the co-managers), for NMFS's evaluation and determination under Limit 6 of the Endangered Species Act (ESA) 4(d) Rule for threatened salmon and steelhead. The HGMPs specify the propagation of salmon in the Nooksack River Basin in Washington State.

NMFS provides this notice to advise other agencies and the public of its plans to analyze effects related to the action, and obtain suggestions and information that may be useful to the scope of issues and alternatives to include in the EIS.

DATES: Written or electronic scoping comments must be received at the appropriate address or email mailbox (see **ADDRESSES**) no later than 5 p.m. Pacific Time July 20, 2016.

ADDRESSES: Written comments may be sent by any of the following methods:

- *Email to the following address: NooksackHatcheriesEIS.wcr@noaa.gov* with the following identifier in the subject line: Nooksack Hatcheries Scoping.
- Mail or hand-deliver to NMFS Sustainable Fisheries Division, 510 Desmond Drive SE., Suite 103, Lacey, WA 98503.
- Fax to (360) 753–9517.

Comments received will be available for public inspection, by appointment, during normal business hours at the above address. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Steve Leider, NMFS, by phone at (360) 753–4650, or email to *steve.leider@noaa.gov.*

SUPPLEMENTARY INFORMATION:

ESA-Listed Species Covered in This Notice

Steelhead (*Oncorhynchus mykiss*): Threatened, naturally and artificially produced in Puget Sound.

Chinook salmon (*O. tshawytscha*): Threatened, naturally and artificially produced in Puget Sound.

Chum salmon (*O. keta*): Threatened, naturally and artificially produced Hood Canal summer-run.

Bull trout (*Salvelinus confluentus*): Threatened Puget Sound/Washington Coast.

Background

The WDFW, the Lummi Nation, the Nooksack Indian Tribe, the Upper Skagit Indian Tribe, and the Swinomish Indian Tribal Community, have jointly submitted to NMFS HGMPs for 11 hatchery programs in the Nooksack River Basin in Washington State. The HGMPs were updated and submitted to NMFS from 2013 to 2015, pursuant to limit 6 of the 4(d) Rule for salmon and steelhead. The hatchery programs include releases of ESA-listed Chinook salmon, and non-listed coho, pink, and fall-run chum salmon into the Nooksack River Basin.

NEPA requires Federal agencies to conduct environmental analyses of their proposed major actions to determine if the actions may affect the human environment. NMFS's action of determining that the co-managers' HGMPs meet criteria under Limit 6 of the 4(d) Rule for salmon and steelhead promulgated under the ESA, is a major Federal action subject to environmental review under NEPA. Therefore, NMFS is seeking public input on the scope of the required NEPA analysis, including the range of reasonable alternatives, recommendations for relevant analysis methods, and information associated with impacts of the alternatives to the resources listed below or other relevant resources.

NMFS will perform an environmental review of the HGMPs and prepare an EIS that will identify potentially significant direct, indirect, and cumulative impacts on the following resources that may be affected by the Proposed Action or its alternatives:

- Listed and Non-listed Species and their habitats
- Water Quantity
- Socioeconomics
- Environmental Justice
- Cumulative Impacts

NMFS will rigorously explore and objectively evaluate a full range of reasonable alternatives in the EIS, including the Proposed Action and a no-action alternative. Other alternatives may include a decreased production alternative.

For all potentially significant impacts, the EIS will identify measures to avoid, minimize, and mitigate the impacts, where feasible.

Request for Comments

NMFS provides this notice to: (1) Advise other agencies and the public of its plans to analyze effects related to the action, and (2) obtain suggestions and information that may be useful to the scope of issues and the full range of alternatives to include in the EIS.

NMFS invites comment from all interested parties to ensure that the full range of issues related to the 11 salmon HGMPs is identified. Comments should be as specific as possible.

Written comments concerning the Proposed Action and the environmental

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Request for Extension of the Deadline for the Preliminary Determination," dated June 1, 2016.

[3] *See* 19 CFR 351.205(e).

review should be directed to NMFS as described above (see **ADDRESSES**). All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public.

Authority

The environmental review of the 11 salmon HGMPs in the Nooksack River Basin of Washington State will be conducted in accordance with requirements of the NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR parts 1500–1508), other appropriate Federal laws and regulations, and policies and procedures of NMFS for compliance with those regulations. This notice is being furnished in accordance with 40 CFR 1501.7 to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS.

Dated: June 15, 2016.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–14484 Filed 6–17–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2016–HQ–0024]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Department of the Army proposes to alter a system of records notice A0190–45 OPMG, entitled "Military Police Reporting Program Records (MPRP)" in its existing inventory of records systems subject to the Privacy Act of 1974, as amended. This system provides detailed criminal investigative information to Commanders and designated Army officials to foster a positive environment, promote and safeguard the morale, physical well-being and general welfare of soldiers in their units. MPRP also enables the maintenance of discipline, law, and order through investigation of complaints and incidents and possible criminal prosecution, civil court action, or regulatory order in accordance with United States Law.

DATES: Comments will be accepted on or before July 20, 2016. This proposed action will be effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Audit Matters Office, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy Rogers, Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905; telephone (703) 428–6185.

SUPPLEMENTARY INFORMATION: The Department of the Army's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Division Web site at *http://dpcld.defense.gov/.* The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, as amended, were submitted on May 27, 2016, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4 of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," revised November 28, 2000 (December 12, 2000 65 FR 77677).

Dated: June 15, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0190–45 OPMG

SYSTEM NAME:

Military Police Reporting Program Records (MPRP) (November 19, 2012, 77 FR 69445).

CHANGES:

SYSTEM ID:

Delete entry and replace with "A0190–45 OPMG (CID)."

SYSTEM NAME:

Delete entry and replace with "Criminal Investigation Command (CID) Information Management System Records (CIMS)."

SYSTEM LOCATION:

Delete entry and replace with "Decentralized to Army installations which created the Military Police Report. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices. The official copy of the military police report and other law enforcement related documents are maintained at the U.S. Army Crime Records Center, 27130 Telegraph Road, Quantico, VA 22134–2253.

Automated records of the Military Police Report (MPR) and Reports of Investigation (ROI) are maintained by the U.S. Army Criminal Investigation Command (USACIDC) G6 as part of the CID Information Management Systems (CIMS) suite of Army Law Enforcement (LE) applications located at 27130 Telegraph Road, Quantico, VA 22134–2253."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Any individual, civilian, government civilian employee, or military personnel, involved in or suspected of being involved in, reporting or witnessing possible criminal activity affecting the interests, property, and/or personnel of the U.S. Army."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Criminal information or investigative files involving the Department of the Army which may consist of military police reports or similar reports containing investigative data, supporting or sworn statements, affidavits, provisional passes, receipts for prisoners or detained persons, reports of action taken, disposition of cases, results of Army Law Enforcement compliance and assessments, police officer credentials, and Military Working Dog Team records.

Specific data to include: Name, Social Security Number (SSN), DOD ID Number, rank, date and place of birth, chronology of events, reports of investigation and criminal intelligence reports containing statements of witnesses, suspects, subject and responding police officer, summary and administrative data pertaining to preparation and distribution of the report, basis for allegations, Serious or Sensitive Incident Reports, modus operandi and other investigative information from Federal, State, and local investigative and intelligence agencies and departments. Indices contain codes for the type of crime, location of investigation, year and date of offense, names and personal identifiers consisting of photos, driver license numbers, Service component, organization, sex, marital status, height, weight, eye color, hair color, race, ethnicity, complexion, nation of origin, home and work telephone numbers, and citizenship of persons who have been subjects of electronic surveillance, suspects, subjects and victims of crimes, report number which allows access to records noted above; agencies, firms, Army and Defense Department organizations which were the subjects or victims of criminal investigations, and disposition and suspense of offenders listed in criminal investigative case files. Witness identification data consisting of name, SSN, rank, date and place of birth, driver license number, Service Component, organization, sex, marital status, height, weight, eye color, hair color, race, ethnicity, complexion, nation of origin, home and work telephone numbers, and citizenship."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 3013, Secretary of the Army; 18 U.S.C. 921–922, Brady Handgun Violence Prevention Act; 28 U.S.C. 534, Uniform Federal Crime Reporting Act of 1988; 42 U.S.C. 5119 *et seq.*, National Child Protection Act of 1993; 42 U.S.C. 10607, Victims' Rights and Restitution Act of 1990; Section 105 of the Immigration and Naturalization Act of 1952; DoD Directive 1030.02, Victim and Witness Assistance; Army Regulation 190–45, Military Police Law Enforcement Reporting; Army Regulation 195–2, Criminal Investigation Activities; Army Regulation 190–12, Military Police Military Working Dog Program; and E.O. 9397 (SSN), as amended."

PURPOSE:

Delete entry and replace with "Provides detailed criminal investigative information to Commanders and designated Army officials to foster a positive environment, promote and safeguard the morale, physical well-being and general welfare of soldiers in their units. Enables the maintenance of discipline, law, and order through investigation of complaints and incidents and possible criminal prosecution, civil court action, or regulatory order in accordance with United States Law.

To conduct criminal investigations, crime prevention, prevention of high risk behavior and criminal intelligence activities; to accomplish management studies involving the analysis, compilation of statistics, and quality control, to ensure that completed investigations are legally sufficient and result in overall improvement in techniques, training and professionalism. Includes personnel security, internal security, criminal, and other law enforcement matters, all of which are essential to the effective operation of the Department of the Army.

To provide Commanders with criminal history reports, in accordance with Army Policy, to identify soldiers with founded criminal offenses and open investigations occurring during their period of service.

To determine suitability for access or continued access to classified information; suitability for promotion, employment, or assignment; suitability for access to military installations or industrial firms engaged in government projects/contracts; suitability for awards or similar benefits; use in current law enforcement investigation or program of any type including applicants; use in judicial or adjudicative proceedings including litigation or in accordance with a court order; advising higher authorities and Army commands of the important developments impacting on security, good order or discipline; reporting of statistical data to Army commands and higher authority."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information concerning criminal or possible criminal activity is disclosed to Federal, state, local and/or foreign law enforcement agencies in accomplishing and enforcing criminal laws; analyzing modus operandi, detecting organized criminal activity, or criminal justice employment. Information may be disclosed to foreign countries under the provisions of international agreements and arrangements including the Status of Forces Agreements regulating the stationing and status of DoD military and civilian personnel, or Treaties.

To the Department of Veterans Affairs to adjudicate veteran claims for disability benefits, post-traumatic stress disorder, and other veteran entitlements.

To Federal, state, and local agencies to comply with the Victim and Witness Assistance Program and the Victims' Rights and Restitution Act of 1990, when the agency is requesting information on behalf of the individual; local law enforcement agencies and private sector entities for the purposes of complying with mandatory background checks, *i.e.*, Brady Handgun Violence Prevention Act (18 U.S.C. 922) and the National Child Protection Act of 1993 (42 U.S.C. 5119 *et seq.*); local child protection services or family support agencies for the purpose of providing assistance to the individual.

To victims and witnesses of a crime for purposes of providing information consistent with the requirements of the Victim and Witness Assistance Program, regarding the investigation and disposition of an offense.

To the Immigration and Naturalization Service, Department of Justice, for use in alien admission and naturalization inquiries conducted under Section 105 of the Immigration and Naturalization Act of 1952, as amended.

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may also apply to this system. The complete list of DoD Blanket Routine Uses can be found online at: *http://dpcld.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx*."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entry and replace with "Electronic storage media and paper records."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Access to system with sensitive information is controlled by DoD Common Access

Card (CAC) authentication with Public Key Infrastructure (PKI) encryption for authorized users having a need-to-know. CID grants access to the system via DD Form 2875 when endorsed by the individual's supervisor as need to know.

Criminal records reports are sent via authorized government electronic mail with PKI encryption or through a DoD CAC enabled system with authentication through PKI encryption to Commanders with a need-to-know. Need-to-know includes persons whose official duties require access to information for purposes relating to risk assessment and management.

Servers are maintained in a secure DOD facility with restricted access.

Paper records stored in secure container/file cabinet with access restricted to those with a need-to-know."

RETENTION AND DISPOSAL:

Delete entry and replace with "Criminal investigations data/information is retained for 40 years after date of final report.

Soldier's criminal history reports sent to commanders are deleted or destroyed by shredding after the Soldier departs the unit."

SYSTEM MANAGER AND ADDRESS:

Delete entry and replace with "U.S. Army Criminal Investigation Command (USACIDC) G6, 27130 Telegraph Road, Quantico, VA 22134–2253."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in 32 CFR part 505, Army Privacy Program or may be obtained from the system manager."

* * * * *

[FR Doc. 2016–14478 Filed 6–17–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy (USMA)

AGENCY: Department of the Army, DoD.

ACTION: Notice of committee meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the following Federal advisory committee meeting will take place.

DATES: The meeting will be held on Monday, July 11, 2016, Time 08:00–11:00 a.m. Members of the public wishing to attend the meeting will be required to show a government photo ID upon entering West Point in order to gain access to the meeting location. All members of the public are subject to security screening.

ADDRESSES: The meeting will be held in the Haig Room, Jefferson Hall, West Point, New York 10996.

FOR FURTHER INFORMATION CONTACT: Mrs. Deadra K. Ghostlaw, the Designated Federal Officer for the committee, in writing at: Secretary of the General Staff, ATTN: Deadra K. Ghostlaw, 646 Swift Road, West Point, NY 10996; by email at: *deadra.ghostlaw@usma.edu* or *BoV@usma.edu*; or by telephone at (845) 938–4200.

SUPPLEMENTARY INFORMATION: The committee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. The USMA BoV provides independent advice and recommendations to the President of the United States on matters related to morale, discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and any other matters relating to the Academy that the Board decides to consider.

Purpose of the Meeting: This is the 2016 Summer Meeting of the USMA BoV. Members of the Board will be provided updates on Academy issues.

Proposed Agenda: The Board Chair will discuss the following topics: Proposed change to "Rules of the USMA Board of Visitors;" Key Events; Second Semester Highlights; Class of 2020; Summer Military Program Highlights; Women's Boxing; Intellectual Capital Update; SHARP (Sexual Harassment and Assault Response and Prevention) Update; Athletic Department Restructure Update; USMA Construction Update; and Upcoming Events.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis. Attendees are requested to submit their name, affiliation, and daytime phone number seven business days prior to the meeting to Mrs. Ghostlaw, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Pursuant to 41 CFR 102–3.140d, the committee is not obligated to allow a member of the public to speak or otherwise address the committee during the meeting, and members of the public attending the committee meeting will not be permitted to present questions from the floor or speak to any issue under consideration by the committee. Because the committee meeting will be held in a Federal Government facility on a military post, security screening is required. A government photo ID is required to enter post. Please note that security and gate guards have the right to inspect vehicles and persons seeking to enter and exit the installation. The United States Military Academy, Jefferson Hall, is fully handicap accessible. Wheelchair access is available at the south entrance of the building. For additional information about public access procedures, contact Mrs. Ghostlaw, the committee's Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the committee, in response to the stated agenda of the open meeting or in regard to the committee's mission in general. Written comments or statements should be submitted to Mrs. Ghostlaw, the committee Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements should be submitted to Mrs. Ghostlaw, the committee Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Official at least seven business days prior to the meeting to be considered by the committee. The Designated Federal Official will review all timely submitted written comments or statements with the committee Chairperson and ensure the comments are provided to all members of the committee before the meeting. Written comments or statements received after this date may not be provided to the committee until its next meeting.

Pursuant to 41 CFR 102–3.140d, the committee is not obligated to allow a member of the public to speak or otherwise address the committee during the meeting. However, the committee Designated Federal Official and Chairperson may choose to invite certain submitters to present their comments verbally during the open portion of this meeting or at a future meeting. The Designated Federal Officer, in consultation with the committee Chairperson, may allot a specific amount of time for submitters to present their comments verbally.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–14510 Filed 6–17–16; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Judicial Proceedings Since Fiscal Year 2012 Amendments Panel ("the Panel").

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(a). The charter and contact information for the Panel's Designated Federal Officer (DFO) can be obtained at *http://www.facadatabase.gov/.*

The Panel will conduct an independent review and assessment of judicial proceedings conducted under the Uniform Code of Military Justice (UCMJ) involving adult sexual assault and related offenses since the amendments made to the UCMJ by section 541 of the National Defense Authorization Act for Fiscal Year 2012 for the purpose of developing recommendations for improvements to such proceedings. The Panel shall consist of five members, two of whom must have served on the Response Systems to Adult Sexual Assault Crimes Panel. Panel members will be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee members. Each member is appointed to provide advice on behalf of the Government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Panel-related travel and per diem, members serve without compensation. The DoD, as necessary and consistent with the Panel's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Panel, and all subcommittees must operate under the provisions of FACA and the Government in the Sunshine Act. Subcommittees will not work independently of the Panel and must report all recommendations and advice solely to the Panel for full deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Panel. No subcommittee or any of its members can update or report, verbally or in writing, directly to the DoD or any Federal officers or employees. The Panel's DFO, pursuant to DoD policy, must be a full-time or permanent part-time DoD employee, and must be in attendance for the duration of each and every Panel/subcommittee meeting. The public or interested organizations may submit written statements to the Panel membership about the Panel's mission and functions. Such statements may be submitted at any time or in response to the stated agenda of planned Panel meetings. All written statements must be submitted to the Panel's DFO who will ensure the written statements are provided to the membership for their consideration.

Dated: June 15, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–14482 Filed 6–17–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2016–ICCD–0071]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Part D Discretionary Grant Application—Individuals With Disabilities Education Act (1894–0001)

AGENCY: Department of Education (ED), Office of Special Education and Rehabilitative Services (OSERS).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 20, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0071. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–349, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Debra Sturdivant, 202–245–7539.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimizes the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Part D Discretionary Grant Application—Individuals with Disabilities Education Act (1894–0001).

OMB Control Number: 1820–0028.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 800.

Total Estimated Number of Annual Burden Hours: 20,000.

Abstract: Under the Individuals with Disabilities Education Act discretionary grants are authorized to support technology, State personnel development, personnel preparation, parent training and information, and technical assistance activities. This grant application provides the forms and information necessary for applicants to submit an application for funding, and information for use by technical reviewers to determine the quality of the application.

Dated: June 15, 2016.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–14488 Filed 6–17–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; American Overseas Research Centers Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information:

American Overseas Research Centers Program

Notice inviting applications for new awards for fiscal year (FY) 2016

Catalog of Federal Domestic Assistance (CFDA) Number: 84.274A.

DATES:

Applications Available: June 20, 2016.

Deadline for Transmittal of Applications: August 4, 2016.

Deadline for Intergovernmental Review: October 3, 2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The American Overseas Research Centers (AORC) Program provides grants to consortia of institutions of higher education (IHEs) to establish or operate an AORC that promotes postgraduate research, exchanges, and area studies.

AORC grants may be used to pay all or a portion of the cost of establishing or operating a center or program, including: The cost of operation and maintenance of overseas facilities; the cost of organizing and managing conferences; the cost of teaching and research materials; the cost of acquisition, maintenance, and preservation of library collections; the cost of bringing visiting scholars and faculty to the center to teach or to conduct research; the cost of faculty and staff stipends and salaries; the cost of faculty, staff, and student travel; and the cost of publication and dissemination of materials for the scholarly and general public.

Priorities: This notice contains two invitational priorities.

Invitational Priority: Under 34 CFR 75.105(c)(1), we do not give an application that meets the priority a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1. Projects that propose outreach and related activities designed to inform scholars and faculty at community colleges and minority-serving institutions of potential fellowships and other research and professional development opportunities at the AORC and encourage and facilitate the participation of these individuals in AORC programs.

For the purpose of this priority:

Community college means an institution that meets the definition in section 312(f) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1058(f)); or an institution of higher education (as defined in section 101 of the HEA) that awards degrees and certificates, more than 50 percent of which are not bachelor's degrees (or an equivalent) or master's, professional, or other advanced degrees.

Minority-serving institution means an institution that is eligible to receive assistance under sections 316 through 320 of part A of title III, under part B of title III, or under title V of the HEA.

Note: You may view lists of title III- and title V-eligible institutions at the following link: *https://ww2.ed.gov/about/offices/list/ope/idues/t3t5-eligibiles-2015.pdf.* The eligibility status is still current for institutions listed at this link. You may also view the list of Historically Black Colleges and Universities at 34 CFR 608.2.

Invitational Priority 2. Projects that propose to leverage technology to provide open access to the AORC's resources such as conference proceedings, and teaching, research, and outreach materials for use by the scholarly and general public.

Program Authority: 20 U.S.C. 1128a.

Areas of National Need: In accordance with section 601(c) of the HEA (20 U.S.C. 1121(c)) the Secretary has consulted with and received recommendations regarding national need for expertise in foreign languages and world regions from the head officials of a wide range of Federal agencies. The Secretary has taken these recommendations into account, and a list of foreign languages and world regions identified by the Secretary as areas of national need may be found on the following Web site: *http://www2.ed.gov/about/offices/list/ope/iegps/consultation-2016.pdf.*

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $650,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2017 from the list of unfunded applications from this competition.

Estimated Range of Awards: $48,000–$65,000 per year.

Estimated Average Size of Awards: $56,000 per year.

Maximum Award: The maximum award amount is $65,000. We will reject any application that proposes a budget exceeding $65,000 for a single budget period of 12 months.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* Consortia of United States institutions of higher education that receive more than 50 percent of their funding from public or private United States sources, have a permanent presence in the country in which the center is located, and are organizations described in section 501(c)(3) of the Internal Revenue Code of 1986, which are exempt from taxation under section 501(a) of such code.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Cheryl E. Gibbs, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E245, Washington, DC 20202–4260. Telephone: (202) 453–5690 or by email: *cheryl.gibbs@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative (Part III) to no more than 30 pages. Partial pages will count as a full page toward the page limit. For the purpose of determining compliance with the page limit, each page on which there are words will be counted as one full page. Applicants must use the following standards:

- A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides. Page numbers and an identifier may be within the 1″ margin.
- Double space (no more than three lines per vertical inch) all text in the project narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in figures and graphs. Text in charts and tables may be single-spaced. You should also include a table of contents in the project narrative, which will not be counted against the page limit.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the Application for Federal Assistance face sheet (SF 424); Part II, the Budget Information Summary form (ED Form 524); Part III A, the one-page Project Abstract form; Part III B, the Performance Measure Form(s); and Part IV, the Assurances and Certifications. You must include your complete response to the selection criteria and priorities in Part III, the Project Narrative.

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times: Applications Available:* June 20, 2016.

Deadline for Transmittal of Applications: August 4, 2016.

Applications for grants under this program must be submitted electronically using the *Grants.gov* Apply site (*Grants.gov*). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: October 3, 2016.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, *Grants.gov.*

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via *Grants.gov,* you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with *Grants.gov* as an AOR. Details on these steps are outlined at the following *Grants.gov* Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the American Overseas Research Centers Program, CFDA Number 84.274A, must be submitted electronically using the Governmentwide *Grants.gov* Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Training Program at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.274, not 84.274A).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov,* we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov.*
- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this program to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through *Grants.gov,* please refer to the *Grants.gov* Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. This notification indicates receipt by *Grants.gov* only, not receipt by the Department. *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by *Grants.gov,* the Department will retrieve your application from *Grants.gov* and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by *Grants.gov,* it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through *Grants.gov*, please contact the *Grants.gov* Support Desk, toll free, at 1–800–518–4726. You must obtain a *Grants.gov* Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Grants.gov* system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with *Grants.gov*, along with the *Grants.gov* Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the *Grants.gov* system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the *Grants.gov* system. We will not grant you an extension if you failed to fully register to submit your application to *Grants.gov* before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the *Grants.gov* system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the *Grants.gov* system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Cheryl E. Gibbs, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E245, Washington, DC 20202–4260. FAX: (202) 453–5780.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.274A), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.274A), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

Note: Applicants must include in the one-page abstract submitted with the application a statement indicating if they have addressed the invitational priorities.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are in 34 CFR 75.209(a) and 75.210 in EDGAR, and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

For this competition, a panel of non-Federal reviewers will review each application in accordance with the selection criteria in 34 CFR 75.209 and 75.210. The individual scores of the reviewers will be added and the sum divided by the number of reviewers to determine the peer review score received in the review process.

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). Performance reports for the AORC Program must be submitted electronically using the International Resource Information System (IRIS), the International and Foreign Language Education office Web-based reporting system. For information about the system and to view the instructions on reporting, please go to *http://iris.ed.gov/iris/pdfs/AORC.pdf.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* The Department intends to use the following program measures to assess the effectiveness of the Overseas Centers projects:

AORC Performance Measure: Number of individuals conducting postgraduate research utilizing the services of Title VI AORCs.

AORC Performance Measure: Percentage of AORC Program participants who advanced in their professional field two years after their participation.

5. *Continuation Awards:* In making a continuation grant under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Cheryl E. Gibbs, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E245, Washington, DC 20202–4260. Telephone: (202) 453–5690 or by email: *cheryl.gibbs@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 15, 2016.

Lynn B. Mahaffie,

Deputy Assistant Secretary for Policy, Planning, and Innovation, Delegated the Duties of the Assistant Secretary for Postsecondary Education.

[FR Doc. 2016–14528 Filed 6–17–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–2952–005.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Report Filing: 2016–06–14_SSR Cost Allocation Refund Report to be effective N/A.
Filed Date: 6/14/16.
Accession Number: 20160614–5037.
Comments Due: 5 p.m. ET 7/5/16.

Docket Numbers: ER15–767–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Report Filing: 2016–06–14_White Pine 2 Refund Report to be effective N/A.
Filed Date: 6/14/16.
Accession Number: 20160614–5047.

Comments Due: 5 p.m. ET 7/5/16.

Docket Numbers: ER16–628–002.

Applicants: Florida Power & Light Company.

Description: Compliance filing: Florida Power & Light Company Market-Based Rate Tariff Compliance Filing to be effective 5/21/2016.

Filed Date: 6/14/16.

Accession Number: 20160614–5114.

Comments Due: 5 p.m. ET 7/5/16.

Docket Numbers: ER16–1920–000.

Applicants: Tucson Electric Power Company.

Description: § 205(d) Rate Filing: Revised Interconnection Agreement and Transmission Service Agreement to be effective 8/15/2016.

Filed Date: 6/14/16.

Accession Number: 20160614–5066.

Comments Due: 5 p.m. ET 7/5/16.

Docket Numbers: ER16–1921–000.

Applicants: New England Power Company.

Description: Notice of Cancellation of Prior Service Agreement of New England Power Company.

Filed Date: 6/14/16.

Accession Number: 20160614–5126.

Comments Due: 5 p.m. ET 7/5/16.

Docket Numbers: ER16–1922–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2016–06–14_Tariff revisions for Market Participant Funded Projects (MPFPs) to be effective 8/6/2015.

Filed Date: 6/14/16.

Accession Number: 20160614–5138.

Comments Due: 5 p.m. ET 7/5/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 14, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–14517 Filed 6–17–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202)502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
1. CP14–115–000, CP14–103–000	5–23–2016	Ruth A. Carter.
2. CP11–161–000	6–6–2016	FERC Staff.[1]
3. CP16–21–000	6–6–2016	John Puffer.
Exempt:		
1. CP15–17–000, CP14–554–000, CP15–16–000	5–31–2016	U.S. House Representative Sanford D. Bishop, Jr.
2. CP16–9–000	5–31–2016	U.S. House Representative Stephen F. Lynch.
3. P–12966–004	6–1–2016	FERC Staff.[2]
4. CP16–116–000	6–6–2016	State of Texas Lieutenant Governor Dan Patrick.
5. CP15–558–000	6–6–2016	U.S. House Representative Michael G. Fitzpatrick.
6. P–2744–043	6–6–2016	FERC Staff.[3]
7. CP14–96–000	6–7–2016	State of New York Assemblyman Steven H. Cymbrowitz.
8. P–14677–001	6–9–2016	FERC Staff.[4]

Dated: June 14, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–14519 Filed 6–17–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP16–1024–000.

Applicants: Rockies Express Pipeline LLC.

Description: § 4(d) Rate Filing: Neg Rate 2016–06–09 BP K# 949178 to be effective 6/10/2016.

Filed Date: 6/9/16.

Accession Number: 20160609–5165.

Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: RP16–1025–000.

Applicants: Sabine Pipe Line LLC.

Description: § 4(d) Rate Filing: Sabine Pipe Line LLC June 9, 2016 Nomination Timeline Cleanup Filing to be effective 7/9/2016.

Filed Date: 6/9/16.

Accession Number: 20160609–5196.

Comments Due: 5 p.m. ET 6/21/16.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP16–1020–001.

Applicants: Gulf South Pipeline Company, LP.

Description: Tariff Amendment: Amendment to RP16–1020–000 to be effective 6/7/2016.

Filed Date: 6/10/16.

Accession Number: 20160610–5076.

Comments Due: 5 p.m. ET 6/22/16.

Docket Numbers: RP16–864–000.

Applicants: Columbia Gas Transmission, LLC.

Description: Report Filing: Modernization II Settlement Refund Report—RP16–314 to be effective N/A.

Filed Date: 6/10/16.

Accession Number: 20160610–5092.

Comments Due: 5 p.m. ET 6/22/16.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 13, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–14518 Filed 6–17–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9947–91–OGC; EPA–HQ–OGC–2016–0336]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("CAA" or the "Act"), notice is hereby given of a proposed consent decree in *Sierra Club* v. *McCarthy,* Civil Action No. 1:16–cv–235 (D. D.C.). On February 12, 2016, the Sierra Club filed a complaint in the United States District Court for the District of Columbia, alleging that Gina McCarthy, in her official capacity as Administrator of the United States Environmental Protection Agency ("EPA"), failed to perform a non-discretionary duty to grant or deny within 60 days a petition submitted by Sierra Club on September 29, 2015 requesting that EPA object to a CAA Title V permit issued by the Tennessee Department of Environment and Conservation ("TDEC") for the Tennessee Valley Authority's ("TVA") Bull Run Fossil Plant, located in Clinton, Tennessee. The proposed consent decree would establish a deadline for EPA to take such action.

DATES: Written comments on the proposed consent decree must be received by July 20, 2016.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2016–0336 online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334,

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[1] Email conversation dated May 16, 2016 with Greg Lorto.

[2] Memo forwarding letter dated May 26, 2016 from the U.S. Department of the Interior to the State of Utah Department of Natural Resources.

[3] Telephone Record from June 6, 2016 call with Tom Plante, consultant for the Menominee and Park Mill Hydroelectric Project.

[4] Telephone Record from June 8, 2016 call with Jason Garber of Montana Department of Environmental Quality.

1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Charles Starrs, Air and Radiation Law Office (2322A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–1996; email address: *starrs.charles@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by Sierra Club seeking to compel the Administrator to take actions under CAA section 505(b)(2). Under the terms of the proposed consent decree, EPA would agree to sign its response granting or denying the petition filed by Sierra regarding the TVA's Bull Run Fossil Plant, located in Clinton, Tennessee, pursuant to section 505(b)(2) of the CAA, on or before November 10, 2016.

Under the terms of the proposed consent decree, EPA would expeditiously deliver notice of EPA's response to the Office of the Federal Register for review and publication following signature of such response. In addition, the proposed consent decree outlines the procedure for the Plaintiffs to request costs of litigation, including attorney fees.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who are not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the consent decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2016–0336) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information ("OEI") Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov*. You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select "search."

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, Confidential Business Information ("CBI"), or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an "anonymous access" system. If you send an email comment directly to the Docket without going through *www.regulations.gov*, your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: June 10, 2016.

Lorie J. Schmidt,

Associate General Counsel.

[FR Doc. 2016–14526 Filed 6–17–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1541]

Privacy Act of 1974; Notice of Amended System of Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of amended system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, notice is given that the Board of Governors of the Federal Reserve System (Board) is modifying BGFRS–1

(FRB-Recruiting and Placement Records), to account for a new electronic system that Board staff will use to identify, track, screen, and select for certain positions at the Board. In connection with the implementation, the Board is amending the system of records to update the location and manager, the categories of records, the access controls, the retention period, and the record source categories, and to identify the authority more specifically. The Board is not adding or deleting any routine uses or changing the exemptions claimed for this system of records.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment; and the Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act, requires a 40-day period in which to conclude its review of the system. Therefore, please submit any comments on or before July 20, 2016. The amended system of records will become effective August 1, 2016, without further notice, unless comments dictate otherwise.

ADDRESSES: The public, OMB, and Congress are invited to submit comments, identified by the docket number above, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *Fax:* 202/452–3819 or 202/452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments will be made available on the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW., Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Alye S. Foster, Senior Special Counsel, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551, or (202) 452–5289, or *alye.s.foster@frb.gov.* Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Board proposes to modify system of records BGFRS–1 (FRB-Recruiting and Placement Records). The Board is replacing an electronic system that it uses to assist Board staff in identifying, tracking, screening, and selecting individuals for positions at the Board. In connection with the implementation, the Board is amending the system of records to update the location and manager, the categories of records, the access controls, the retention period, and the record source categories, and is also identifying the authority more specifically. The Board is not adding or deleting any routine uses or changing the exemptions claimed for this system of records.

In accordance with 5 U.S.C. 552a(r), a report of this system of records is being filed with the Chair of the House Committee on Oversight and Government Reform, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority.

Dated: June 14, 2016.

Robert deV. Frierson,
Secretary of the Board.

System of Records

BGFRS–1

SYSTEM NAME:

FRB—Recruiting and Placement Records.

SYSTEM LOCATION:

Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. Copies of resumes, applications, supporting documentation, and offer information may also be stored by the hiring managers in their respective Board offices and electronic systems.

Some of the records may be stored by contractors on behalf of the Board. The contractors are: PeopleFluent Inc., 434 Fayetteville Street, 9th Floor, Raleigh, NC 27601, and Oracle Corporation, Equinix CH3–1905 Lunt Avenue, Elk Grove, IL 60007.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who seek employment with the Board of Governors of the Federal Reserve System.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system include resumes, applications, and supporting documentation submitted by persons seeking employment; information from job fairs; job referrals; notes from interviews with applicants; notes of interviews with references; and offer letters and related documentation, including verification of education and/or military status. The records also include information regarding access to and use of the electronic systems. Certain information is also retained to enable the Board's Office of Diversity and Inclusion to monitor and track the Board's recruiting and hiring performance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 10 and 11 of the Federal Reserve Act (12 U.S.C. 244 and 248(l)).

PURPOSE(S):

These records are collected and maintained to assist the Board in recruiting, hiring, and retaining qualified employees, and to allow the Board to periodically review its hiring practices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, and I apply to this system. Records may also be used to disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested), when necessary to obtain information relevant to a Board decision to hire or retain an employee, issue a security clearance, conduct a security or suitability investigation of an individual, classify jobs, let a contract, or issue a license, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored securely in paper and stored on secure servers as electronic records.

RETRIEVABILITY:

Paper records are retrieved by year, hiring division, or recruited position, not by individually identifiable labels. Electronic records are retrieved by name or other identifying aspects.

ACCESS CONTROLS:

Access to records is limited to those whose official duties require it. Paper records are secured by lock and key and electronic records are password protected. The electronic storage systems have the ability to track individual actions within the applications. The audit and accountability controls are based on Board standards which, in turn, are based on applicable laws and regulations. The controls assist in detecting security violations and performance or other issues within the electronic systems.

Access is restricted to authorized employees and contractors within the Board and vendor customer support personnel who require access for official business purposes. Board users are classified into different roles and common access and usage rights are established for each role. User roles are used to delineate between the different types of access requirements such that users are restricted to data that is required in the performance of their duties. Periodic audits and reviews are conducted to determine whether authenticated users still require access and whether there have been any unauthorized changes in any information maintained.

RETENTION AND DISPOSAL:

The current retention period for application materials of applicants who are not hired is two years. The Board is presently re-evaluating the retention schedule for all application materials, however, and until the existing retention period is confirmed as appropriate or a new retention period is set, the Board will maintain the application materials indefinitely. Application materials for applicants who are hired are kept in the employee's official personnel file and maintained in accordance with the System of Records entitled BGFRS–4, "FRB—General Personnel Records."

SYSTEM MANAGER AND ADDRESS:

The system manager for records other than those involving the recruitment of economist or research assistant positions in the economics divisions of the Board is the Assistant Director, Talent Acquisition, Management Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. The system manager for records involving the recruitment of economist or research assistant positions in the economics divisions of the Board is the Senior Associate Director, Division of Research and Statistics.

NOTIFICATION PROCEDURES:

An individual desiring to learn of the existence of their record or gain access to his or her record in this system of records shall submit a request in writing to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. The request should contain: (1) A statement that it is made pursuant to the Privacy Act of 1974, (2) the name of the system of records expected to contain the record requested or a concise description of such system of records, (3) necessary information to verify the identity of the requester, and (4) any other information that may assist in the rapid identification of the record for which access is being requested.

RECORD ACCESS PROCEDURES:

Same as "Notification procedures" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedures" above except that the envelope should be clearly marked "Privacy Act Amendment Request." The request for amendment of a record should: (1) Identify the system of records containing the record for which amendment is requested, (2) specify the portion of that record requested to be amended, and (3) describe the nature of and reasons for each requested amendment.

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom the record pertains; the transcript or notes from interviews with the individual; notes from interviews and supporting documentation from references; recruiters; job referrals; and official transcripts and other documentation from schools identified by the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain portions of this system of records may be exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to subsections 5 U.S.C. 552a(k)(2) and (k)(5).

[FR Doc. 2016–14415 Filed 6–17–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 15, 2016.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Uptown Bancorporation, Inc.*, Britton, South Dakota; to acquire at least 72 percent of First American State Bank, Oldham, South Dakota.

Board of Governors of the Federal Reserve System, June 15, 2016.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2016–14494 Filed 6–17–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Board Member Meeting

TIME AND DATE: 8:30 a.m. (Eastern Time) June 27, 2016 (In-Person).

PLACE: 10th Floor Board Meeting Room, 77 K Street NE., Washington, DC 20002.

STATUS: Parts will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the Public

1. Approval of the Minutes of the May 23, 2016 Joint Board Member/ETAC Meeting
2. Monthly Reports
   (a) Participant Activity Report
   (b) Investment Performance Report
   (c) Legislative Report
3. Vendor Financials

Closed to the Public

Information covered under 5 U.S.C. 552b(c)(9)(B).

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: June 16, 2016.

Megan Grumbine,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2016–14591 Filed 6–16–16; 11:15 am]

BILLING CODE 6760–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0297; Docket No. 2016–0001; Sequence 3]

Submission for OMB Review; General Services Administration Acquisition Regulation; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: General Services Administration (GSA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding the Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

DATES: Submit comments on or before July 20, 2016.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for "Information Collection 3090–0297, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery." Select the link "Submit a Comment" that corresponds with "Information Collection 3090–0297, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 3090–0297" on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. Attn: Ms. Flowers/IC 3090–0297, Generic Clearance.

Instructions: Please submit comments only and cite Information Collection 3090–0297, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Hada Flowers, Office of Governmentwide Policy, GSA, at 202–501–4755, or email *hada.flowers@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

A notice was published in the **Federal Register** at 81 FR 20638 on April 8, 2016. No comments were received. The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study.

This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance.

Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study.

Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results. The Digital Government Strategy released by the White House in May, 2012 drives agencies to have a more customer-centric focus. Because of this, GSA anticipates an increase in requests to use this generic clearance, as the plan states that: A customer-centric principle charges us to do several things: Conduct research to understand the customer's business, needs and desires; "make content more broadly available and accessible and present it through multiple channels in a program- and device-agnostic way; make content more accurate and understandable by maintaining plain language and content freshness standards; and offer easy paths for feedback to ensure we continually improve service delivery.

The customer-centric principle holds true whether our customers are internal (*e.g.,* the civilian and military federal workforce in both classified and unclassified environments) or external (*e.g.,* individual citizens, businesses, research organizations, and state, local, and tribal governments)."

B. Annual Reporting Burden

Respondents: 160,082.
Responses per Respondent: 1.
Total Annual Responses: 160,082.
Hours per response: 3.8386 minutes.
Total Burden hours: 10,241.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0297, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, in all correspondence.

Dated: June 14, 2016.

David A. Shive,

Chief Information Officer.

[FR Doc. 2016–14509 Filed 6–17–16; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–0734]

Evaluation and Reporting of Age, Race, and Ethnicity Data in Medical Device Clinical Studies; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled "Evaluation and Reporting of Age, Race, and Ethnicity Data in Medical Device Clinical Studies." The purpose of this document is to outline FDA's proposed recommendations and expectations for the evaluation and reporting of age, race, and ethnicity data in medical device clinical studies. The primary intent of these recommendations is to improve the quality, consistency, and transparency of data regarding the performance of medical devices within specific age, race, and ethnic groups. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by September 19, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2016–D–0734 for "Evaluation and Reporting of Age, Race, and Ethnicity Data in Medical Device Clinical Studies." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled "Evaluation and Reporting of Age, Race, and Ethnicity Data in Medical Device Clinical Studies" to the Office of the Center Director, Guidance and Policy Development, Center for Devices and

Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002 or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Kathryn O'Callaghan, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5428, Silver Spring, MD 20993–0002, 301–796–6349; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

Section 907 of the Food and Drug Administration Safety and Innovation Act (Pub. L 112–144) (FDASIA) directed the Agency to publish and provide to Congress a report describing the extent to which clinical trial participation and safety and effectiveness data by demographic subgroups, including sex, age, race, and ethnicity, is included in applications submitted to FDA (Ref 1). Section 907 also directed FDA to publish and provide to Congress an action plan outlining recommendations for improving the completeness and quality of analyses of data on demographic subgroups in summaries of product safety and effectiveness data and in labeling; on the inclusion of such data, or the lack of availability of such data, in labeling; and on improving the public availability of such data to patients health care providers and researchers, and to indicate the applicability of these recommendations to the types of medical products addressed in section 907. In the Action Plan, FDA committed to developing this draft guidance as part of the strategy to fulfill FDASIA requirements (Ref. 2).

This guidance outlines FDA's recommendations and expectations for patient enrollment, data analysis, and reporting of age, race, and ethnicity data in medical device clinical studies. Specific objectives of this guidance are to (1) encourage the collection and consideration of age, race, ethnicity, and associated covariates (*e.g.*, body size, biomarkers, bone density) during the study design stage; (2) outline recommended analyses of study subgroup data with a framework for considering demographic data when interpreting overall study outcomes; and (3) specify FDA's recommendations for reporting age, race, and ethnicity-specific information in summaries and labeling for approved or cleared medical devices. FDA believes these recommendations will help improve the quality, consistency, and transparency of data regarding the performance of medical devices within specific age, race, and ethnic groups as well as encourage appropriate enrollment of diverse populations including relevant age, race, and ethnic groups. Proper evaluation and reporting of these data can benefit patients, clinicians, researchers, regulators, and other stakeholders.

This document extends the policy established in FDA's guidance entitled "Evaluation of Sex-Specific Data in Medical Device Clinical Studies" to additional demographic subgroups of age, race, and ethnicity (Ref. 3). Upon finalization of this draft guidance, FDA intends to integrate the content of both guidances into one document.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on the evaluation and reporting of age, race, and ethnicity data in medical device clinical studies. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*. Guidance documents are also available at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceCompliance Regulatoryinformation/Guidances/default.htm* or *http://www.regulations.gov*. Persons unable to download an electronic copy of "Evaluation and Reporting of Age, Race, and Ethnicity Data in Medical Device Clinical Studies" may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500026 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to currently approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). These collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subparts A through E, have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 814, subpart H, have been approved under OMB control number 0910–0332; the collections of information in 21 CFR part 822 have been approved under OMB control number 0910–0449; and the collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485.

V. Reference

The following reference is on display in the Division of Dockets Management (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is also available electronically at *http://www.regulations.gov*. FDA has verified the Web site address, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. FDA Report: Collection, Analysis, and Availability of Demographic Subgroup Data for FDA-Approved Medical Products, issued August 2013, required under FDASIA section 907, available at *http://www.fda.gov/downloads/RegulatoryInformation/Legislation/FederalFoodDrugand CosmeticActFDCAct/SignificantAmendmentstotheFDCAct/FDASIA/UCM365544.pdf*.
2. FDA's Action Plan to Enhance the Collection and Availability of Demographic Subgroup Data (August, 2014), available at *http://www.fda.gov/downloads/RegulatoryInformation/Legislation/FederalFoodDrug andCosmeticActFDCAct/SignificantAmendmentstotheFDCAct/FDASIA/UCM410474.pdf*.
3. FDA's guidance entitled "Evaluation of Sex-Specific Data in Medical Device Clinical Studies" (August 22, 2014), available at *http://www.fda.gov/downloads/medicaldevices/deviceregulationandguidance/guidancedocuments/ucm283707.pdf*.

Dated: June 14, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–14461 Filed 6–17–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–P–1026]

Medical Devices; Exemption From Premarket Notification: Method, Metallic Reduction, Glucose (Urinary, Non-Quantitative) Test System in a Reagent Tablet Format; Republication

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; republication.

SUMMARY: The Food and Drug Administration (FDA) is republishing in its entirety a notice entitled "Medical Devices; Exemption from Premarket Notification: Method, Metallic Reduction, Glucose (Urinary, Non-Quantitative) Test System in a Reagent Tablet Format" that published in the **Federal Register** on May 4, 2016 (81 FR 26802). FDA is republishing to correct an inadvertent error in the Docket Number and to announce a revised comment period. FDA is announcing that it has received a petition requesting exemption from the premarket notification requirements for a method, metallic reduction, glucose (urinary, non-quantitative) test system in a reagent tablet format that is intended to measure glucosuria (glucose in urine). Method, metallic reduction, glucose (urinary, non-quantitative) test systems in a reagent tablet format are used in the diagnosis and treatment of carbohydrate metabolism disorders including diabetes mellitus, hypoglycemia, and hyperglycemia. FDA is publishing this notice to obtain comments in accordance with procedures established by the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Submit either electronic or written comments by July 20, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2016–P–1026 for "Medical Devices; Exemption From Premarket Notification: Method, Metallic Reduction, Glucose (Urinary, Non-Quantitative) Test System in a Reagent Tablet Format." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ana Loloei Marsal, Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4552, Silver Spring, MD 20993–0002, 301–796–8774, *anahita.loloeimarsal@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Under section 513 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c), FDA must classify devices into one of three regulatory classes: Class I, class II, or class III. FDA classification of a device is determined by the amount of regulation necessary to provide a reasonable assurance of safety and effectiveness. Under the Medical Device Amendments of 1976 (1976 amendments) (Pub. L. 94–295), as amended by the Safe Medical Devices Act of 1990 (Pub. L. 101–629), devices are to be classified into class I (general controls) if there is information showing that the general controls of the FD&C Act are sufficient to assure safety and effectiveness; into class II (special controls) if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance; and into class III (premarket approval) if there is insufficient information to support classifying a device into class I or class II and the device is a life sustaining or life supporting device, or is for a use which is of substantial importance in preventing impairment of human health or presents a potential unreasonable risk of illness or injury.

Most generic types of devices that were on the market before the date of the 1976 amendments (May 28, 1976) (generally referred to as preamendments devices) have been classified by FDA under the procedures set forth in section 513(c) and (d) of the FD&C Act through the issuance of classification regulations into one of these three regulatory classes. Devices introduced into interstate commerce for the first time on or after May 28, 1976 (generally referred to as postamendments devices), are classified through the premarket notification process under section 510(k) of the FD&C Act (21 U.S.C. 360(k)). Section 510(k) of the FD&C Act and the implementing regulations, 21 CFR part 807, require persons who intend to market a new device to submit a premarket notification (510(k)) containing information that allows FDA to determine whether the new device is "substantially equivalent" within the meaning of section 513(i) of the FD&C Act to a legally marketed device that does not require premarket approval.

On November 21, 1997, the President signed into law FDAMA (Pub. L. 105–115). Section 206 of FDAMA, in part, added a new section, 510(m), to the FD&C Act. Section 510(m)(1) of the FD&C Act requires FDA, within 60 days after enactment of FDAMA, to publish in the **Federal Register** a list of each type of class II device that does not require a report under section 510(k) of the FD&C Act to provide reasonable assurance of safety and effectiveness. Section 510(m) of the FD&C Act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. FDA published that list in the **Federal Register** of January 21, 1998 (63 FR 3142).

Section 510(m)(2) of the FD&C Act provides that 1 day after date of publication of the list under section 510(m)(1), FDA may exempt a device on its own initiative or upon petition of an interested person if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, or of the petition, and to provide a 30-day comment period. Within 120 days of publication of this document, FDA must publish in the **Federal Register** its final determination regarding the exemption of the device that was the subject of the notice. If FDA fails to respond to a petition under this section within 180 days of receiving it, the petition shall be deemed granted.

II. Criteria for Exemption

There are a number of factors FDA may consider to determine whether a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the guidance the Agency issued on February 19, 1998, entitled "Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff" (Ref. 1).

III. Proposed Class II Device Exemptions

FDA has received the following petition requesting an exemption from premarket notification for a class II device: Martin O'Connor, Germaine Laboratories, Inc., 11030 Wye Dr., San Antonio, TX 78217, for its Method, Metallic Reduction, Glucose (urinary, non-quantitative) classified under 21 CFR 862.1340. FDA previously announced that it received this petition in a notice entitled "Medical Devices; Exemption from Premarket Notification: Method, Metallic Reduction, Glucose (Urinary, Non-Quantitative) Test System in a Reagent Tablet Format" that appeared in the **Federal Register** of May 4, 2016 (81 FR 26802). The document was published with the incorrect docket number. This notice includes the correct docket number for the petition.

IV. Reference

The following reference is on display in the Division of Dockets Management (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is also available electronically at *http://www.regulations.gov*. FDA has verified the Web site address, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. "Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff," February 1998, (*http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM080199.pdf*).

Dated: June 14, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–14459 Filed 6–17–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Bone, Reproductive and Urologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Bone, Reproductive and Urologic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public.

DATES: The meeting will be held on October 19, 2016, from 8:15 a.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FOR FURTHER INFORMATION CONTACT: Kalyani Bhatt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *BRUDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committee will discuss the efficacy and safety of new drug application (NDA) 201656 (desmopressin), 0.75 mcg/0.1 mL and 1.5 mcg/0.1 mL nasal spray, submitted by Serenity Pharmaceuticals, LLC, for the proposed treatment of adult onset nocturia.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 4, 2016. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before September 26, 2016. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by September 27, 2016.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Kalyani Bhatt at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 10, 2016.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2016–14418 Filed 6–17–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR must be received no later than August 19, 2016.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 10–29, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Maternal, Infant, and Early Childhood Home Visiting Program Cost Reporting Pilot Study.

OMB No.: 0906–xxxx—New.

Abstract: The Maternal, Infant, and Early Childhood Home Visiting Program (Federal Home Visiting Program), administered by HRSA in partnership with the Administration for Children and Families, supports voluntary, evidence-based home visiting services during pregnancy and to parents with young children up to kindergarten entry. States, Tribal entities, and certain nonprofit organizations are eligible to receive funding from the Federal Home Visiting Program and have the flexibility to tailor the program to serve the specific needs of their communities. Funding recipients may sub award grant funds to organizations, otherwise known as Local Implementing Agencies (LIAs), in order to provide services to eligible families in at-risk communities.

Need and Proposed Use of the Information: This information collection is requested to conduct a pilot study to test the reliability of a standardized cost reporting tool for the provision of evidence-based home visiting services. The information collected will be used to: Test the reliability and feasibility of implementing a proposed set of standardized cost metrics and organizational characteristics across various contexts; estimate preliminary total costs for implementing evidence-based home visiting services, including ranges; and further refine cost metrics and the cost reporting tool based on feedback received through the pilot study. Proposed standard cost metrics have been developed based on a review of the existing literature for measures of home visiting costs, as well as from ongoing discussions with developers of evidence-based home visiting models.

Likely Respondents: Organizations including LIAs providing evidence-based home visiting services through the Federal Home Visiting Program.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Cost Elements Table	90	1	90	4	360
Organizational Characteristics Table	90	1	90	0.5	45
Total	90		90		405

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2016–14417 Filed 6–17–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[30-Day notice]

Agency Information Collection Request. 30-Day Public Comment Request, Grants.gov

AGENCY: Office of the Secretary, HHS.

Agency Information Collection Request; 30-Day Public Comment Request; *Grants.gov.*

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, *Grants.gov* (EGOV), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, to *Ed.Calimag@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the *Grants.gov* OMB Desk Officer; faxed to OMB at 202–395–6974.

Proposed Project

Application for Federal Assistance Research and Related SF424 OMB No. 4040–0001.

3 Year Extension and assignment as a Common Form.

Office: Grants.gov.

Abstract: The Application for Federal Assistance SF–424 Research and Related is an OMB-approved collection (4040–0001). This information collection is used by more than 26 Federal grant-making entities for research and related projects. This IC originally was to expire on June 30, 2016. The expiration date has been extended to July 31, 2016. We are requesting a three-year clearance of this collection and that it be designated as a Common Form.

Estimated Annualized Burden Table:

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
SF–424 Application for Federal Assistance—Research and Related	137,407	1	1	137,407
Research and Related Budget 5 Year	121,416	1	1	121,416
Research and Related Budget 10 Year	1,118	1	1	1,118
SF–424 Research and Related Multi-Project Cover	1,570	1	1	1,570
Research & Related Multi-Project 10 Year Budget	1,570	1	1	1,570
R & R Multi-Project Subaward Budget Attachment(s) Form 10YR 30ATT	1,570			1,570
R & R Subaward Budget Attachment(s) Form	217			217
R & R Subaward Budget Attachment(s) Form 5 YR 30 ATT	121,088	1	1	121,088
R & R Subaward Budget Attachment(s) Form 10 YR 30 ATT	1,118	1	1	1,118
Research & Related Senior/Key Person Profile	218	1	1	218
Research and Related Senior/Key Person Profile (Expanded)	136,940	1	1	136,940
Research And Related Other Project Information	137,699	1	1	137,699
SBIR/STTR Information	21,289	1	1	21,289
Total	683,220			683,220

Terry S. Clark,
Asst. Information Collection Clearance Officer.
[FR Doc. 2016–14489 Filed 6–17–16; 8:45 am]
BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[30-Day notice]

Agency Information Collection Request; 30-Day Public Comment Request, Grants.gov

AGENCY: Office of the Secretary, HHS.

Agency Information Collection Request; 30-Day Public Comment Request, *Grants.gov*.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, *Grants.gov* (EGOV), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, to *Ed.Calimag@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the *Grants.gov* OMB Desk Officer; faxed to OMB at 202–395–6974.

Proposed Project

Application for Federal Assistance SF424 OMB No. 4040–0004.

3 Year Extension and assignment as a Common Form.

Office: Grants.gov.

Abstract: The Application for Federal Assistance SF–424 is an OMB-approved collection (4040–0004). This information collection is used by more than 26 Federal grant-making entities. This IC expires on June 30, 2016. We are requesting a three-year clearance of this collection and that it be designated as a Common Form.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms (if necessary)	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
SF–424 Application for Federal Assistance	Grant Applicant	14,883	1	1	14,883
Total	....	14,883	....	....	14,883

Terry S. Clark,
Asst. Information Collection Clearance Officer.
[FR Doc. 2016–14487 Filed 6–17–16; 8:45 am]
BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[30-Day notice]

Agency Information Collection Request, 30-Day Public Comment Request, Grants.gov

AGENCY: Office of the Secretary, HHS.

Agency Information Collection Request. 30-Day Public Comment Request, *Grants.gov*.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, *Grants.gov* (EGOV), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, to *Ed.Calimag@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the *Grants.gov* OMB Desk Officer; faxed to OMB at 202–395–6974.

Proposed Project

Application for Federal Assistance SF–424 Individual.

3 Year Extension.

Office: Grants.gov.

Abstract: 4040–0005 is an OMB-approved collection. This information collection is used by more than 2 Federal grant-making entities, but not by HHS. Therefore, burden hours are not reported for HHS. Since this IC is used by more than 2 Federal grant-making entities, *Grants.gov* seeks to assign this as a common form. This IC expires on July 31, 2016. We are requesting a three-year clearance for 4040–0005 and that the form be designated as a common forms.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms (if necessary)	Type of espondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application for Federal Assistance SF–424 Individual.	Grant Applicant	0	1	1	0
Total	....	0	....	....	0

Terry S. Clark,

Asst. Information Collection Clearance Officer.

[FR Doc. 2016–14493 Filed 6–17–16; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Special Emphasis Panel, DSR–W51.

Date: July 11–12, 2016.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Carla Walls, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Room 2137B, Bethesda, MD 20892, (301) 435–6898, *wallsc@mail.nih.gov.*

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Special Emphasis Panel, DSR–W50.

Date: July 12, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Carla Walls, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute, of Child Health and Human Development, NIH, 6710B Rockledge Drive, Room 2137B, Bethesda, MD 20892, (301) 435–6898, *wallsc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 14, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14439 Filed 6–17–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Sub-Saharan Africa Consortium for Sickle Cell Disease.

Date: July 6, 2016.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Michael P Reilly, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7200, Bethesda, MD 20892, 301–496–9659, *reillymp@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Data Coordinating Center for Sub-Saharan Africa Consortium.

Date: July 6, 2016.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Michael P Reilly, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7200, Bethesda, MD 20892, 301–496–9659, *reillymp@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 14, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14437 Filed 6–17–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; NCCIH Training, Career Development, Fellowship, and Research Grant Review.

Date: July 28, 2016.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NCCIH, Suite 401, 6707 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Martina Schmidt, Ph.D., Chief, Office of Scientific Review, National Center for Complementary & Integrative Health, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, 301–594–3456, *schmidma@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Integrative Health, National Institutes of Health, HHS)

Dated: June 14, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14435 Filed 6–17–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; ENCODE DCC and DAC.

Date: July 15, 2016.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NHGRI, 5635FL, 3rd Floor Conference Room, Fishers Lane, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Lita Proctor, Ph.D., Extramural Research Programs Staff, Program Director, Human Microbiome Project, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, Bethesda, MD 20892, 301–496–4550, *proctorlm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: June 14, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14436 Filed 6–17–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 13–109: Mechanistic Insights from Birth Cohorts.

Date: July 11, 2016.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Valerie Durrant, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 827–6390, *durrantv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Social and Behavioral Influences on HIV Prevention and Treatment.

Date: July 12, 2016.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Shalanda A. Bynum, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, 301–755–4355, *bynumsa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; SPARC: Pre-Clinical Development of Existing Market-Approved Devices to Support New Market Indications.

Date: July 12, 2016.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Robert C. Elliott, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Biology.

Date: July 13, 2016.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Charles Morrow, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, 301–451–4467, *morrowcs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: NIDDK Translational Research.

Date: July 14, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John Bleasdale, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–4514, *bleasdaleje@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: AIDS and AIDS related applications.

Date: July 15, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, Bethesda, MD 20892, 301–451–5953, *tuoj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.

Date: July 18–19, 2016.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Grand Chicago Riverfront, 71 East Upper Wacker Drive, Chicago, IL 60601.

Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7812, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; NS16–021: Mechanistic Basis of Diffuse White Matter Disease in VCID.

Date: July 19, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Linda MacArthur, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301–537–9986, *macarthurlh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioengineering Sciences and Technologies: AREA Review.

Date: July 19, 2016.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Michael L. Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 14, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14434 Filed 6–17–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS-associated Opportunistic Infections and Cancer Study Section.

Date: July 11, 2016.

Time: 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Eduardo A. Montalvo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–357: Understanding Alzheimer's Disease in the Context of the Aging Brain.

Date: July 12, 2016.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Boris P. Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Sleep, Depression, Addictions, and Child/Adolescent Health.

Date: July 13, 2016.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Wind Cowles, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, Bethesda, MD 20892, *cowleshw@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mentored Training in Comparative and Veterinary Medicine.

Date: July 14–15, 2016.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA application in Infectious Diseases and Microbiology.

Date: July 18, 2016.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA Application in Parasitic Infection.

Date: July 18, 2016.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Fouad A. El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Immunopathology and Immunotherapy.

Date: July 18, 2016.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jeffrey Smiley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–594–7945, *smileyja@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: June 14, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14433 Filed 6–17–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Exploratory Studies of Smoking Cessation Interventions for People with Schizophrenia (R21/R33).

Date: July 8, 2016.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 14, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14441 Filed 6–17–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NST–1 Member Conflict.

Date: June 16, 2016.

Time: 7:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Grand Chicago Riverfront, 71 E. Wacker Drive, Chicago, IL 60601.

Contact Person: William Benzing, Ph.D., Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, 301–496–0660, *benzingw@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: June 14, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14442 Filed 6–17–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Initial Review Group, Function, Integration, and Rehabilitation Sciences Subcommittee.

Date: June 24, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Joanna Kubler-Kielb, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Room 2127D, Bethesda, MD 20892, (301) 435–6916, *kielbj@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 14, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14440 Filed 6–17–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Conference Grant Review (R13).

Date: July 12, 2016.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924, 301–435–0277, *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Emerging Investigator Award (EIA).

Date: July 13, 2016.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892, 301–496–2434, *kristen.page@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 14, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14438 Filed 6–17–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular Targets for Cancer Intervention.

Date: June 27–28, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Careen K. Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301)435–3504, *tothct@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 14, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14432 Filed 6–17–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer at (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Project: Addiction Technology Transfer Centers (ATTC) Network Program Monitoring (OMB No. 0930–0216)—Extension

The Substance Abuse and Mental Health Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) will continue to monitor program performance of its Addiction Technology Transfer Centers (ATTCs). The ATTCs disseminate current health services research from the National Institute on Drug Abuse, National Institute on Alcohol Abuse and Alcoholism, National Institute of Mental Health, Agency for Health Care Policy and Research, National Institute of Justice, and other sources, as well as other SAMHSA programs. To accomplish this, the ATTCs develop and update state-of-the-art, research-based curricula and professional development training.

CSAT monitors the performance of ATTC events. The ATTCs hold three types of events: Technical assistance events, meetings, and trainings. An ATTC technical assistance event is defined as a jointly planned consultation generally involving a series of contacts between the ATTC and an outside organization/institution during which the ATTC provides expertise and gives direction toward resolving a problem or improving conditions. An ATTC meeting is defined as an ATTC sponsored or co-sponsored event in which a group of people representing one or more agencies other than the ATTC work cooperatively on a project, problem, and/or policy. An ATTC training is defined as an ATTC-sponsored or co-sponsored event of at least three hours that focuses on the enhancement of knowledge and/or skills. Higher education classes are included in this definition, with each course considered as one training event.

CSAT currently uses seven (7) instruments to monitor the performance and improve the quality of ATTC events. Two (2) of these forms, the Meeting Follow-up Form and the Technical Assistance Follow-up Form, are currently approved by the Office of Management and Budget (OMB) through approval for CSAT Government Performance and Results Act (GPRA) Customer Satisfaction instruments (OMB No. 0930–0197). CSAT is not seeking any action related to these two forms at this time. They are merely referenced here to provide clarity and context to the description of the forms CSAT uses to monitor the performance of the ATTCs.

The remaining five (5) instruments for program monitoring and quality improvement of ATTC events are currently approved by the OMB (OMB No. 0930–0216) for use through April 30, 2013. These five forms are as follows: Event Description Form; Training Post Event Form; Training Follow-up Form; Meeting Post Event Form; and Technical Assistance Post Event Form. Sixty percent of the forms are administered in person to participants at educational and training events, who complete the forms by paper and pencil. Ten percent of the training courses are online, and thus, those forms are administered online. The remaining thirty percent is made up of 30-day follow-up forms that are distributed to consenting participants via electronic mail using an online survey tool. At this time, CSAT is requesting approval to extend the use of these five forms as is, with no revisions. A description of each of these forms follows.

(1) *Event Description Form (EDF).* The EDF collects descriptive information about each of the events of the ATTC Network. This instrument asks approximately 10 questions of ATTC faculty/staff relating to the event focus and format, as well as publications to be used during the event. It allows the ATTC Network and CSAT to track the number and types of events held. There are no revisions to the form. CSAT is proposing to continue to use the form as is.

(2) *Training Post Event Form.* This form is distributed to training participants at the end of the training activity, and collected from them before they leave. For training events which take place over an extended period of time, this form is completed after the final session of training. The form asks approximately 30 questions of each individual that participated in the training. Training participants are asked to report demographic information, education, profession, field of study, status of certification or licensure, workplace role, employment setting, satisfaction with the quality of the training and training materials, and to assess their level of skills in the topic area. There are no revisions to the form. CSAT is proposing to continue to use the form as is.

(3) *Training Follow-up Form.* The Training Follow-up form, which is administered 30-days after the event to 25% of consenting participants, asks about 25 questions. The form asks participants to report demographic information, satisfaction with the quality of the training and training materials, and to assess their level of skills in the topic area. No revisions are being made to the form. CSAT is proposing to continue to use the form as is.

(4) *Meeting Post Event Form.* This form is distributed to meeting participants at the end of the meeting, and collected from them before they leave. This form asks approximately 30 questions of each individual that participated in the meeting. Meeting participants are asked to report demographic information, education, profession, field of study, status of certification or licensure, workplace role, employment setting, and satisfaction with the quality of the event and event materials, and to assess their level of skills in the topic area. No revisions are being made to the form. CSAT is proposing to continue to use the form as is.

(5) *Technical Assistance (TA) Post Event Form.* This form is distributed to technical assistance participants at the end of the TA event. This form asks approximately 30 questions of each individual that participated in the TA event. TA participants are asked to report demographic information, education, profession, field of study, status of certification or licensure, workplace role, employment setting, and satisfaction with the quality of the event and event materials, and to assess their level of skills in the topic area. No revisions are being made to the form. CSAT is proposing to continue to use the form as is.

(6) The information collected on the ATTC forms will assist CSAT in documenting the numbers and types of participants in ATTC events, describing the extent to which participants report improvement in their clinical competency, and which method is most effective in disseminating knowledge to various audiences. This type of information is crucial to support CSAT in complying with GPRA reporting requirements and will inform future development of knowledge dissemination activities.

The chart below summarizes the annualized burden for this project.

Type of respondent	Number of respondents	Responses per respondent	Total responses	Hours per response	Total annual burden hours	Hourly wage cost	Total hour cost
ATTC Faculty/Staff:							
Event Description Form	250	1	250	.25	62.50	$20.64	$1,290
Meeting and Technical Assistance Participants:							
Post-Event Form	5,000	1	5,000	.12	600	20.64	12,384
Follow-up Form	Covered under CSAT Government Performance and Results Act (GPRA) Customer Satisfaction form (OMB # 0930–0197)						
Training Participants:							
Post-Event Form	30,000	1	30,000	.16	4,800	20.64	99,072
Follow-up Form	7,500	1	7,500	.16	1,200	20.64	24,768
Total	42,750		42,750		6,662.50		137,514

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 15E57–B, 5600 Fishers Lane, Rockville, MD 20852 *OR* email a copy at *summer.king@samhsa.hhs.gov.*

Written comments should be received by August 19, 2016.

Summer King,

Statistician.

[FR Doc. 2016–14511 Filed 6–17–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2016–0499]

National Maritime Security Advisory Committee; Teleconference

AGENCY: Coast Guard, DHS.

ACTION: Notice of teleconference meeting.

SUMMARY: The National Maritime Security Advisory Committee will meet on July 5, 2016, via teleconference to discuss various issues relating to national maritime security. This meeting will be open to the public.

DATES: The Committee will meet by teleconference on Tuesday, July 5, 2016 from 3 p.m. to 5 p.m. Eastern Daylight Time. This meeting may close early if all business is finished. To join the teleconference, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to obtain the needed information no later than 3 p.m. on July 1, 2016. The number of teleconference lines is limited and will be available on a first-come, first-served basis. Written comments for distribution to Committee members before the meeting must be submitted no later than June 27, 2016.

ADDRESSES: Written comments may be submitted to the docket for this notice, USCG–2016–0499, using the Federal eRulemaking Portal at *http://www.regulations.gov.* To facilitate public participation, we are inviting public comment on the issues to be considered by the Committee as listed in the "Agenda" section below. If you encounter technical difficulties, contact the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: All submissions must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding the Federal Docket Management system in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Docket Search: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* type USCG–2016–0499 in the Search box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Owens, Alternate Designated Federal Official of the National Maritime Security Advisory Committee, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593, Stop 7581, Washington, DC 20593–7581; telephone 202–372–1108 or email *ryan.f.owens@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting via teleconference is in compliance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix).

The National Maritime Security Advisory Committee operates under the authority of 46 U.S.C. 70112. The National Maritime Security Advisory Committee provides advice, consults with, and makes recommendations to the Secretary of Homeland Security, via the Commandant of the Coast Guard, on matters relating to national maritime security.

Agenda of Meeting

The agenda for the July 5, 2016 teleconference is as follows:

(1) Coast Guard Cyber Security Tasking. At their last public meeting, the Committee was asked to provide recommendations concerning a Cyber Security Information Sharing and Analysis Center. A copy of the tasking can be found at *http://homeport.uscg.mil/nmsac.* The National Maritime Security Advisory Committee will meet via teleconference to receive the report of the working group and provide recommendations. The public will be provided an opportunity to comment prior to any voting on this issue.

(2) Transportation Worker Identification Credential; Next Generation Specifications. At the last public meeting The Committee was tasked with providing recommendations on what the next generation of Transportation Worker Credentials and readers should incorporate. A copy of the tasking can be found at *http://homeport.uscg.mil/nmsac.* The National Maritime Security Advisory Committee will meet via teleconference to receive the report of the working group and provide recommendations. The public will be provided an opportunity to comment prior to any voting on this issue.

(3) Extremely Hazardous Cargo Strategy. The Committee will receive a tasking to work with the Chemical Transportation Advisory Committee in developing an implementation strategy for the Strategy.

During the July 5, 2016 meeting via teleconference, a public comment will be held from approximately 4:45 p.m. to 5 p.m. Speakers are requested to limit their comments to three minutes. Please note that this public comment period may start before 4:45 p.m. if all other agenda items have been covered and may end before 5 p.m. if all those wishing to comment have done so.

Dated: June 15, 2016.

K.P. McAvoy,

Captain, U.S. Coast Guard, Acting Director of Inspections and Compliance.

[FR Doc. 2016–14512 Filed 6–17–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5953–N–01]

Notice of Intent To Prepare a Draft Environmental Impact Statement (EIS) for the Rebuild by Design Meadowlands Flood Protection Project in Bergen County, New Jersey

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of intent to prepare an EIS.

SUMMARY: The U.S. Department of Housing and Urban Development (HUD) gives notice that the State of New Jersey Department of Environmental Protection (NJDEP), on behalf of the State of New Jersey through its Department of Community Affairs (NJDCA), as the recipient of U.S. Department of Housing and Urban Development (HUD) grant funds, and as the "Responsible Entity," as that term is defined by HUD regulations at 24 CFR 58.2(a)(7)(i), intends to prepare an Environmental Impact Statement (EIS) for the Rebuild by Design (RBD) Meadowlands Flood Protection Project (the Proposed Project). The State of New Jersey, through NJDCA, has designated the NJDEP as the Lead Agency to prepare the EIS for the Proposed Project in accordance with the National Environmental Policy Act (NEPA). The EIS will analyze the environmental effects of alternatives for the construction of flood risk reduction measures within the Boroughs of Little Ferry, Moonachie, Carlstadt, and Teterboro, and the Township of South Hackensack, all in Bergen County, New Jersey (the Project Area). Such measures will be designed to address the impacts of coastal and riverine (fluvial) flooding on the quality of the human environment in the Project Area due to both sea level rise and storm hazards, including heavy rainfall events and intense coastal storm events. The approximate Project Area boundaries are: Hackensack River to the east; Paterson Plank Road and the southern boundary of Carlstadt to the south; State Route 17 to the west; and Interstate 80 and the northern boundary of the Borough of Little Ferry to the north.

The State of New Jersey through NJDCA is the Grantee of HUD Community Development Block Grant Disaster Recovery (CDBG–DR) funds that have been appropriated under the Disaster Relief Appropriations Act of 2013 (Pub. L. 113–2, approved January 29, 2013) related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster that was declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (Stafford Act) in calendar year 2012 for Hurricane Sandy. The Proposed Project was developed and selected as a winning concept through HUD's and the Hurricane Sandy Rebuilding Task Force's RBD competition. The RBD competition promotes the development of innovative resilience projects in the Sandy-affected region. HUD has allocated $150 million in CDBG–DR funds for the planning, design, and implementation of this Project. Receipt of CDBG–DR funding requires compliance with NEPA.

This Notice of Intent to prepare an EIS is, therefore, being published in accordance with NEPA, the Council of Environmental Quality (CEQ) NEPA Regulations found at *40 CFR parts 1500–1508*, HUD implementing regulations at *24 CFR part 58*, and HUD's additional environmental review requirements for the Project published in a **Federal Register** notice on October 16, 2014 (*79 FR 62182*). This Notice of Intent to prepare a EIS (as defined at *40 CFR 1508.22*) is in accordance with CEQ Regulations, and represents the beginning of the public scoping process as outlined in *40 CFR 1501.7*.

A Draft Public Scoping Document, or Draft Scope of Work to prepare an EIS (Draft Scope of Work), for the Proposed Project is available at *www.rbd-meadowlands.nj.gov*. The Draft Scope of Work outlines the Proposed Project's purpose and need, initial range of alternatives, resource areas to be addressed in the EIS, proposed analytical methodologies, and other elements associated with the Project and this NEPA process as known at this early stage.

Following the public scoping process, a Draft EIS will be prepared that analyzes the Proposed Project. Once the Draft EIS is certified as complete, a notice will then be sent to appropriate government agencies, groups, and individuals known to have an involvement or interest in the Draft EIS and particularly in the environmental impact issues identified therein. A Notice of Availability of the Draft EIS will be published in the **Federal Register** and local media outlets at that time in accordance with HUD and CEQ Regulations. Any person or agency interested in receiving notice and commenting on the Draft Scope of Work or Draft EIS should contact the individual named in this notice under the heading **FOR FURTHER INFORMATION CONTACT** no later than July 20, 2016.

DATES: Comments on the Draft Scope of Work are requested by this notice and will be accepted until July 20, 2016.

ADDRESSES: Comments on the Draft Scope of Work are requested by this notice and will be accepted by the individuals named in this notice under the heading **FOR FURTHER INFORMATION CONTACT**.

Comments may also be submitted: (1) Online to the NJDCA Web site at *http://www.nj.gov/dca/divisions/sandyrecovery/review/*; or (2) U.S. Mail to: Ms. Laura Shea, Assistant Commissioner, Sandy Recovery Division, New Jersey Department of Community Affairs, 101 South Broad Street, P.O. Box 800, Trenton, NJ 08625–0800.

Comments will also be accepted at the NEPA scoping meeting to be held on July 6, 2016. All comments received by July 20, 2016 will be considered prior to the acceptance, certification, and distribution of the Final Scope of Work, which will reflect substantive comments received during the public scoping period and used as input into the development of the Draft EIS. Commenters are also requested to submit: (a) Any information related to reports or other environmental studies planned or completed in the Project Area; (b) major issues that the Draft EIS should consider; and (c) any recommended mitigation measures and alternatives associated with the Proposed Project.

Federal agencies having jurisdiction by law, special expertise, or other special interest should report their interest and indicate their readiness to aid in the EIS effort as a "Cooperating Agency." Written requests of individuals and organizations to participate as Section 106 Consulting Parties under the National Historic Preservation Act may also be made to the individual named in this notice under the heading **FOR FURTHER INFORMATION CONTACT**.

The public and agencies will also be offered an opportunity to comment on the purpose and need, range of alternatives, level of detail, methodologies, and other elements of the Draft Scope of Work through public and agency outreach that will consist of: A public scoping meeting (described herein); scheduled community advisory group meetings associated with the preparation of the EIS; meetings with the applicable cooperating, involved, and interested agencies, as necessary; and meetings with Section 106 consulting parties, including federally recognized Indian tribes. Once completed and released, the Draft EIS will be available for public and agency review and comment.

With NJDEP serving as the Lead Agency, the EIS will be prepared in accordance with NEPA, CEQ regulations found at 40 CFR parts 1500–1508, and HUD regulations found at 24 CFR part 58. In accordance with 42 U.S.C. 5304(g) and HUD's regulations at 24 CFR part 58 (entitled, "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities"), HUD has provided for assumption of its NEPA authority by the State of New Jersey through the NJDCA, with NJDCA delegating NEPA Lead Agency responsibility to the NJDEP for the administration of the Proposed Project.

The EIS will also comply, as necessary, with Section 106 of the National Historic Preservation Act, the Clean Water Act, Executive Order 12898 "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," Executive Order 11990 "Protection of Wetlands," Executive Order 11988 "Floodplain Management," Executive Order 13690 "Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input," and other applicable Federal, State, and local laws and regulations.

FOR FURTHER INFORMATION CONTACT: For further information, to request a copy of the Draft Scope of Work, to comment on the Draft Scope of Work, and/or to address questions concerning the Proposed Project, please contact NJDEP via (1) email at *rbd-meadowlands@dep.nj.gov*; or (2) U.S. Mail to Mr. Dennis Reinknecht, RBD Program Manager, Engineering and Construction, Office of Flood Hazard Risk Reduction Measures, 501 East State Street, Mail Code 501–01A, P.O. Box 420, Trenton, NJ 08625–0420.

Persons may also view the Draft Scope of Work by visiting the Rebuild by Design-Meadowlands Web site at *www.rbd-meadowlands.nj.gov*.

SUPPLEMENTARY INFORMATION:

A. Project Background

HUD launched the RBD competition in the summer of 2013 (July 29, 2013, *78 FR 45551*) to develop ideas to improve physical, ecological, economic, and social resilience in regions affected by Hurricane Sandy. The competition sought to promote innovation by developing flexible solutions that would increase regional resilience. The Proposed Project was one of the competition's winning concepts; it was developed with the primary goal of reducing flood risk in the Project Area. HUD awarded $150 million to the State of New Jersey for the Proposed Project. The EIS will analyze potential impacts of certain alternatives involving construction of flood risk reduction measures designed to address the impacts of coastal and riverine (fluvial) flooding in the Project Area, stemming from the award-winning RBD design.

The Project Area is vulnerable to both inland and coastal flooding. Hurricane Sandy exposed the vulnerabilities within the Project Area after low-lying areas were inundated by coastal storm surges. Within the Project Area, rainfall-induced flooding is more common and happens more frequently than coastal storm surge flooding. However, during Hurricane Sandy the impacts of rainfall flooding were considerably less than those from coastal storm surge flooding. If Hurricane Sandy had been a substantial rainfall event as well as a storm surge event, the Project Area's past history of flooding during heavy rainfall events indicates that the storm could have further increased flood levels and property damages.

Hurricane Sandy significantly impacted the Project Area, highlighting existing deficiencies in the Project Area's resiliency and ability to adequately protect vulnerable populations and critical infrastructure from flooding during major storm events. These impacts included extensive inland flooding due to major tidal surges, with significant damage to residential and commercial properties, impacts to critical health care facilities, and the failure of critical power, transportation, and water and sewer infrastructure. Approximately 1,600 homes, 600 rental properties, and 1,900 businesses within the Project Area were damaged by Hurricane Sandy. Loss of income, loss of property taxes, and other Sandy-related property damage were estimated to be in excess of $40 million within the Project Area, including over $20 million in property damages alone. The average amount of property damage to each structure in the Project Area ranged from approximately $1,000 to $12,000. Nearly 30 percent of the structures damaged within the Project Area were renter-occupied; finding affordable replacement housing for renters within the Project Area was one of the immediate challenges following the hurricane. The goal of the Proposed Project is to reduce such damages, impacts, and losses during future events by decreasing the flooding risk in the Project Area.

B. Purpose of and Need for the Proposed Project

The Proposed Project includes the construction of flood risk reduction measures designed to address the impacts of coastal and riverine (fluvial) flooding on the quality of the human environment due to both storm hazards and sea level rise within the Project Area. The purpose of the Proposed Project is to reduce flood risk in the Project Area, thereby protecting critical infrastructure, residences, and businesses from the more frequent and intense flood events anticipated in the future.

The Proposed Project is needed to address: (1) Systemic inland flooding from high-intensity rainfall/runoff events, and (2) coastal flooding from storm surges and abnormally high tides. In addition to reducing flooding in the Project Area, the Proposed Project is needed to directly protect life, public health, and property in the Project Area, reduce flood insurance rates and claims from future events, and potentially restore property values to the extent possible with the available funding. The Proposed Project is needed to increase community resiliency, including protecting accessibility to, and on-going operations of, critical health care services, emergency services, and transportation and utility infrastructure. The Proposed Project will also deliver co-benefits, potentially integrating the flood hazard risk reduction strategy with civic, cultural, and recreational values to incorporate active and passive recreational uses, multi-use facilities, public spaces, and other design elements that integrate the Proposed Project into the fabric of the community to the extent practical with the available funding.

To address these needs, the Proposed Project would combine hard infrastructure (such as bulkheads or floodwalls), soft landscaping features (such as berms and/or levees), and/or a series of drainage improvements that would reduce flooding in the Project Area, with freshwater basins and the Meadowlands wetlands themselves increasing flood storage capacity and flood protection. The Proposed Project would connect to and potentially expand existing and future marshland restoration efforts by the New Jersey Sports and Exhibition Authority. Urban design features integrated into the proposed flood protection system would also provide ancillary benefits by enhancing natural areas and allowing public access to open spaces and increased recreational opportunities along the Hackensack River. The EIS will examine alternatives that best meet the purpose and need of the Proposed Project.

C. Project Alternatives

The EIS will examine three build alternatives, as well as a No Action Alternative. Each of the three build alternatives will seek to reduce the flood risk within the Project Area. These alternatives vary by the type of infrastructure that is proposed. Alternative 1 will analyze the use of levees, berms, barriers, or floodwalls to reduce flood risk. Alternative 2 will analyze the impacts of substantial drainage improvements achieved through a series of local projects within the Project Area to reduce flood risk, Alternative 3, a hybrid of Alternatives 1 and 2, will analyze the impacts of blending new infrastructure and drainage improvements to reduce flood risk in the Project Area.

Each alternative is being evaluated through the ongoing engineering feasibility analysis and application of preliminary screening criteria. These alternatives will be further developed and modified as the EIS process proceeds. Each alternative must be implementable within the limits of the CDBG–DR funding available at the latest by September 30, 2022. The three build alternatives, as currently proposed, are summarized below.

Alternative 1 or the Structural Flood Reduction Alternative. Alternative 1 will analyze various structural, infrastructure-based solutions that would be constructed to provide protection from both fluvial and tidal/storm surge flooding. This alternative, to the extent practical, would provide a Federal Emergency Management Agency (FEMA) Certifiable level of flood protection to a portion of the Project Area. This alternative may consist of a range of structures, including levees, berms, barriers, drainage structures, pump stations, floodgates, and/or other hard and soft infrastructure to achieve the required level of flood protection. Different routing alignments and different levels of flood protection are also being considered.

Alternative 2 or the Fluvial/Rain Event Drainage Improvement Alternative. Alternative 2 will analyze a series of storm water drainage projects aimed at reducing the occurrence of higher frequency, small- to medium-scale flooding events that impact the communities located in the Project Area. Together, these interventions would provide a system of improved storm water management, and may include both local drainage improvements and wetlands restoration to protect communities located in the Project Area and address day-to-day water management challenges. These interventions may include: Drainage ditches, pipes, and pump stations at strategic locations; increased roadway elevations; new green infrastructure (*e.g.*, wetland drainage basins, bioswales), water storage areas, and water control structures; cleaning and de-snagging of existing waterways; and increasing and enhancing public open space.

Alternative 3 or the Hybrid Alternative. Alternative 3 will analyze a strategic, synergistic blend of new infrastructure and local drainage improvements to reduce flood risk in the Project Area. Components of Alternatives 1 and 2 will be combined to provide an integrated, hybrid solution that employs a combination of appropriate levees, berms, drainage structures, pump stations, and/or floodgates, coupled with local drainage improvement projects, to achieve the maximum amount of flood protection within the boundaries of the Project Area.

No Action Alternative. The No Action Alternative will also be evaluated in accordance with CEQ Regulations at *40 CFR 1502.14(d).* The No Action Alternative represents the status quo or baseline conditions without implementation of any of the improvements associated with the Proposed Project.

The alternatives analysis will consist of a comparison of the four alternatives' impacts on the human environment pursuant to *24 CFR part 58*, as well as how well each alternative meets the Purpose of and Need for the Proposed Project. This process, which will be described in detail in the Draft EIS, will lead to the designation of a Preferred Alternative.

D. Need for the EIS

The Proposed Project described above has the potential to significantly affect the quality of the human environment. An EIS will therefore be prepared in accordance with NEPA requirements. Responses to this notice will be used to: (1) Determine significant environmental issues; (2) assist in developing a range of alternatives to be considered; (3) identify issues that the EIS should address; and (4) identify agencies and other parties that will participate in the EIS process and the basis for their involvement.

E. Scoping

A public scoping meeting on the Draft Scope of Work will be held on July 6, 2016, from 6:00 until 8:00 p.m. at the Robert J. Craig School, located at 20 West Park Street, Moonachie, NJ 07074. The public meeting facility will be handicapped-accessible to the mobility-impaired. Interpreter services will be made available for persons who are hearing or visually impaired, upon advance request. Interpreter services will also be made available for persons with Limited English Proficiency through a language access service, upon advance request. The EIS scoping meeting will provide an opportunity for the public to learn more about the Project and provide input on the EIS and the NEPA process.

During the meeting, an overview of the Proposed Project will be provided, as well as details on the early development of alternatives. The public scoping meeting will also provide an opportunity for the public to provide comment on the Draft Scope of Work. The Draft Scope of Work will be made available to the public for review and comment at the scoping meeting. An electronic version of the Draft Scope of Work is available at *www.rbd-meadowlands.nj.gov.*

Comments on the Draft Scope of Work may be provided during the scoping meeting, or via the methods specified in this notice under the heading **FOR FURTHER INFORMATION CONTACT.**

Comments on the Draft Scope of Work are requested by this notice and will be accepted and considered until July 20, 2016.

F. Probable Environmental Effects

The following areas have been identified for analysis in the EIS: Land use and land use planning; visual quality and aesthetics; socioeconomics and community/population and housing; environmental justice; cultural and historic resources; transportation, traffic, and circulation, including airport operations; noise and vibration; air quality; greenhouse gas emissions; global climate change; recreation; utilities and service systems; public services; biological resources, including threatened and endangered species; geology and soils; hydrology and flooding, including floodplain management; water resources, water quality, and waters of the United States, including wetlands; coastal zone management; hazards and hazardous materials; and cumulative impacts.

Dated: June 10, 2016.

Harriet Tregoning,

Principal Deputy Assistant, Secretary for Community Planning and Development.

[FR Doc. 2016–14524 Filed 6–17–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5910–N–09]

60-Day Notice of Proposed Information Collection: OneCPD Technical Assistance Needs Assessment

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* August 19, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4186, Washington, DC 20410–5000; telephone (202) 402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Kenneth Rogers, Senior CPD Specialist, Department of Housing and Urban Development, 451 7th Street SW., Room 7218, Washington, DC 20410–5000; email me at *Kenneth.W.Rogers@hud.gov* or telephone (202) 402–4396. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: OneCPD Technical Assistance Needs Assessment.

OMB Approval Number: 2506–0198.

Type of Request: Extension.

Form Number: N/A.

Description of the need for the information and proposed use: Application information is needed to determine competition winners, *i.e.*, the technical assistance providers best able to develop efficient and effective programs and projects that increase the supply of affordable housing units, prevent and reduce homelessness, improve data collection and reporting, and use coordinated neighborhood and community development strategies to revitalize and strengthen their communities.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Application	52	1	52	100	5,200	$0	$0
Work Plans	23	10	230	18	4,140	40	165,600
Reports	23	4	72	6	432	40	17,280
Recordkeeping	23	12	276	6	1,656	40	66,240
Total					11,248		249,120

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 8, 2016.

Harriet Tregoning,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2016–14520 Filed 6–17–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5910–N–10]

60-Day Notice of Proposed Information Collection: Veterans Home Rehabilitation Program

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* August 19, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4186, Washington, DC 20410–5000; telephone (202) 402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Jackie L. Williams, Ph.D., Director, Office of Rural Housing and Economic Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7240, Washington, DC 20410; email at *jackie.williams@hud.gov* or telephone (202) 708–2290. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Williams.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Veterans Home Rehabilitation Program.

OMB Approval Number: 2506–new.

Type of Request: New.

Form Number: SF–424; HUD 424–CB; HUD 424–CBW; SF–LLL; HUD 2880; HUD 2990; HUD 2991; HUD 2993; HUD 2994A; HUD 27061; and HUD 27300.

Description of the need for the information and proposed use: The purpose of this submission is for applications for the Veterans Home Rehabilitation Program grant process. The Veterans Home Rehabilitation program is funded by the Consolidated Appropriations Act of 2016, Section 1079 (Pub. L. 113–291). Information is required to rate and rank competitive applications and to ensure eligibility of applicants for funding. Quarterly reporting is required to monitor grant management.

Respondents: Public.

Estimated Number of Respondents: 200.

Estimated Number of Responses: 200.

Frequency of Response: Once.

Average Hours per Response: 2,548.

Total Estimated Burdens: 63,700.

	Estimated number of respondents	Annual responses	Total responses	Burden per responses	Total annual hours	Burden cost per instrument
HUD–424CB	200	1	200	3.12	624	15,600
HUD–424CBW	200	1	200	3.12	624	15,600
HUD–2880	200	1	200	2	400	10,000
HUD–2991	200	1	200	0	0	0
HUD–2993	200	1	200	0	0	0
HUD–2994A	200	1	200	.5	100	2,500
HUD–27061	200	1	200	1	200	5,000
HUD–27300	200	1	200	3	600	15,000
	200	1	200		2,548	63,700

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 8, 2016.

Harriet Tregoning,

Principal Deputy Assistance Secretary for Community Planning and Development.

[FR Doc. 2016–14522 Filed 6–17–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2016–N071; FXES11130000–156–FF08E00000]

Endangered and Threatened Wildlife and Plants; Recovery Plan for Four Species of the Santa Rosa Plain

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the Recovery Plan for four plant species of the Santa Rosa Plain: The Sonoma sunshine, Burke's goldfields, the Sebastopol meadowfoam, and the Sonoma County Distinct Population Segment of the California Tiger Salamander. The recovery plan includes recovery objectives and criteria, and specific actions necessary to achieve removal of the species from the Federal Lists of Endangered and Threatened Wildlife and Plants.

ADDRESSES: You may obtain a copy of the recovery plan from our Web site at *http://www.fws.gov/endangered/species/recovery-plans.html.* Alternatively, you may contact the Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W–2605, Sacramento, CA 95825 (telephone 916–414–6700).

FOR FURTHER INFORMATION CONTACT: Jennifer Norris, Field Supervisor, at the above street address by telephone (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION: We announce the availability of the Recovery Plan for the following four species of the Santa Rosa Plain:

- *Blennosperma bakeri* (Sonoma sunshine)
- *Lasthenia burkei* (Burke's goldfields)
- *Limnanthes vinculans* (Sebastopol meadowfoam)
- Sonoma County Distinct Population Segment of the California Tiger Salamander (*Ambystoma californiense*)

The recovery plan includes recovery objectives and criteria, and specific actions necessary to achieve removal of the species from the Federal Lists of Endangered and Threatened Wildlife and Plants.

Background

Recovery of endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program and the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). Recovery means improvement of the status of listed species to the point at which listing is no longer appropriate under the criteria specified in section 4(a)(1) of the Act. The Act requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species.

We listed *Blennosperma bakeri* (Sonoma sunshine), *Lasthenia burkei* (Burke's goldfields), and *Limnanthes vinculans* (Sebastopol meadowfoam) as endangered on December 2, 1991 (56 FR 61173). The present ranges of these species are predominantly located on the Santa Rosa Plain, which is located in central Sonoma County, bordered on the south and west by the Laguna de Santa Rosa, on the east by the Coast Range foothills, and on the north by the Russian River. However, the geographic area covered by this recovery plan includes all known locations of the species, some of which are outside of the Plain. They are annual plants that exist only in seasonal wetlands.

We listed the Sonoma County California tiger salamander, which we identified as a distinct population segment (DPS), as endangered on March 19, 2003 (68 FR 13498). The species is endemic to the Santa Rosa Plain. The Sonoma County California tiger salamander requires seasonal wetlands for breeding, and the surrounding uplands (upland habitat) for dispersal, feeding, growth, maturation, and maintenance of the juvenile and adult population.

The loss, degradation, and fragmentation of seasonal wetlands due to development have led to population declines for all four species. While ongoing agricultural practices have disturbed seasonal wetlands, certain agricultural practices, such as irrigated or grazed pasture, have protected habitat from intensive development and are compatible with persistence of these listed species. However, conversion of pastures to vineyards is a current threat of high magnitude.

Recovery Plan Goals

The purpose of a recovery plan is to provide a framework for the recovery of species so that protection under the Act is no longer necessary. A recovery plan includes scientific information about the species and provides criteria that enable us to gauge whether downlisting or delisting the species is warranted. Furthermore, recovery plans help guide our recovery efforts by describing actions we consider necessary for each species' conservation and by estimating time and costs for implementing needed recovery measures.

The ultimate goal of this recovery plan is to recover *Blennosperma bakeri* (Sonoma sunshine), *Lasthenia burkei* (Burke's goldfields), *Limnanthes vinculans* (Sebastopol meadowfoam), and California Tiger Salamander Sonoma County Distinct Population Segment (*Ambystoma californiense*) so that they can be delisted. To meet the recovery goals, the following objectives have been identified:

1. Restore habitat conditions to sustain viable (meta) populations of species to support self-sufficiency in perpetuity.
2. Maintain the current geographic, elevational, and ecological distribution of each listed species.
3. Maintain the genetic structure and diversity of existing populations.
4. Protect and manage sufficient habitat to ensure that the listed entity is able to adapt to unforeseen or unknown threats, such as climate change.
5. Reintroduce individuals to successfully establish new populations in historically occupied areas.
6. Minimize the contribution of extant or potential threats.
7. Monitor species population trends across multiple years (and varied climatic conditions) to determine whether abundances are sustainable.
8. Manage occurrences on a case-by-case basis during consultation, with an emphasis on protections to identified core areas.

As *Blennosperma bakeri* (Sonoma sunshine), *Lasthenia burkei* (Burke's goldfields), *Limnanthes vinculans* (Sebastopol meadowfoam), and California Tiger Salamander Sonoma County Distinct Population Segment (*Ambystoma californiense*) meet reclassification and recovery criteria, we will review their status and consider them for removal from the Federal Lists of Endangered and Threatened Wildlife and Plants.

Authority

We developed our recovery plan under the authority of section 4(f) of the Act, 16 U.S.C. 1533(f). We publish this notice under section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 31, 2016.

Ren Lohoefener,

Regional Director, Pacific Southwest Region.

[FR Doc. 2016–14456 Filed 6–17–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–NWRS–2016–0063; FXRS12610800000–167–FF08R00000]

Lower Klamath, Clear Lake, Tule Lake, Upper Klamath, and Bear Valley National Wildlife Refuges, Klamath County, OR; Siskiyou and Modoc Counties, CA: Draft Comprehensive Conservation Plan/Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice availability; extension of public comment period.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the extension of the public comment period on the Draft Comprehensive Conservation Plan (CCP) and Environmental Impact Statement (EIS) for Lower Klamath, Clear Lake, Tule Lake, Upper Klamath, and Bear Valley National Wildlife Refuges (Refuges). We opened the comment period on May 6, 2016, via a **Federal Register** notice, and now extend it to accommodate public requests. If you have already submitted comments, you do not need to resubmit them. They will be considered.

DATES: The comment period for the document published in the **Federal Register** of May 6, 2016 (81 FR 27468) is extended. To ensure consideration, we must receive your written comments by August 4, 2016. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES:

Document Availability: You may obtain copies of the documents in the following places:

- *Internet: http://www.regulations.gov* (Docket Number FWS–R8–NWRS–2016–0063).
- *In Person:*
  - ○ Klamath Refuge Basin National Wildlife Refuge Complex Headquarters, 4009 Hill Road, Tulelake, CA 96134.
  - ○ The following libraries: For the location of libraries with a copy of this document, see Public Availability of Documents under **SUPPLEMENTARY INFORMATION.**

Submitting Comments: You may submit written comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R8–NWRS–2016–0063, which is the docket number for this notice. Then, on the right side of the screen, click "Open Docket Folder" to locate the documents and submit a comment.
- *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–NWRS–2016–0063; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments by only the methods described above. We will post all information received on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments under **SUPPLEMENTARY INFORMATION** for more information).

FOR FURTHER INFORMATION CONTACT: Klamath Refuge Planner, (916) 414–6464 (phone).

SUPPLEMENTARY INFORMATION: We announce the extension of the public comment period on the Draft Comprehensive Conservation Plan (CCP) and Environmental Impact Statement (EIS) for Lower Klamath, Clear Lake, Tule Lake, Upper Klamath, and Bear Valley National Wildlife Refuges (Refuges). We opened the comment period on May 6, 2016, via a **Federal Register** notice (81 FR 27468), and now extend it to accommodate public requests. If you have already submitted comments, you do not need to resubmit them. They will be considered.

Public Availability of Documents

In addition to any methods in **ADDRESSES**, you can view or obtain documents at the following locations:

- *Public Libraries:* The table below lists the libraries where the document can be found during regular library hours.

Library	Address	Phone No.
Klamath County Main	126 South Third Street, Klamath Falls, OR 97601	(541) 882–8894
Keno Branch	15555 Hwy 66, #1, Keno, OR 97627	(541) 273–0750
Malin Branch	2307 Front Street, Malin, OR 97632	(541) 723–5210
Merrill Branch	365 Front Street, Merrill, OR 97633	(541) 798–5393
S. Suburban Branch	3625 Summers Lane, Klamath Falls, OR 97603	(541) 273–3679
Tulelake Branch	451 Main Street, Tulelake, CA 96134	(530) 667–2291
Butte Valley Branch	800 West Third Street, Dorris, CA 96023	(530) 397–4932
Redding	1100 Parkview Ave., Redding, CA 96001	(530) 245–7250
Multnomah Co. Central	801 SW 10th Ave, Portland, OR 97205	(530) 988–5123
Sacramento Public Central Branch	828 I St., Sacramento, CA 95814	(916) 264–2700
Medford	205 S. Central Ave, Medford, OR 95701	(541) 774–8689

Public Comments

We request that you send comments only by one of the methods described in **ADDRESSES.** If you submit a comment via *http://www.regulations.gov,* your entire comment—including your personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Comments and materials we receive, as well as documents associated with the notice, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R8–NWRS–2016–0063.

Public Meetings

The locations, dates, and times of public meetings will be listed in a planning update distributed to the project mailing list and posted on the refuge planning Web site at *http://www.fws.gov/refuge/Tule_Lake/what_we_do/conservation.html.*

Environmental Protection Agency Comments

To view comments on the draft CCP/EIS from the Environmental Protection Agency (EPA), go to *https://cdxnodengn.epa.gov/cds-enepa-public/action/eis/search.*

Ren Lohoefener,

Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2016–14621 Filed 6–17–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2016–N089; FF03E00000–FXES11120300000–167]

Draft Environmental Assessment, Draft Habitat Conservation Plan, and Draft Implementing Agreement; Receipt of an Application for an Incidental Take Permit, Wildcat Wind Farm, Madison and Tipton Counties, Indiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Wildcat Wind Farm I, LLC (applicant), for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA), for its Wildcat Wind Farm (Wildcat) (project). If approved, the ITP would be for a 28-year period and would authorize the incidental take of an endangered species, the Indiana bat, and a threatened species, the northern long-eared bat. The applicant has prepared a draft habitat conservation plan (HCP) that describes the actions and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of the Indiana bat and northern long-eared bat. The ITP application also includes a draft implementing agreement (IA). We also announce the availability of a draft Environmental Assessment (DEA), which has been prepared in response to the permit application in accordance with the requirements of the National Environmental Policy Act (NEPA). We request public comment on the application and associated documents.

DATES: We will accept comments received or postmarked on or before August 4, 2016.

ADDRESSES: *Document availability:*

- *Internet:* You may obtain copies of the documents on the Internet at *http://www.fws.gov/midwest/endangered/permits/hcp/wildcat/.*
- *U.S. Mail:* You can obtain the documents by mail from the Indiana Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).
- *In-Person:* To view hard copies of the documents in person, go to one of the Ecological Services Offices (8 a.m. to 4 p.m.) listed under **FOR FURTHER INFORMATION CONTACT.**

Comment submission: In your comment, please specify whether your comment addresses the draft HCP, draft EA, or draft IA, or any combination of the aforementioned documents, or other supporting documents. You may submit written comments by one of the following methods:

- *Electronically:* Submit by email to *CommentBFO@fws.gov.*
- *By hard copy:* Submit by U.S. mail or hand-delivery to U.S. Fish and Wildlife Service; Bloomington Ecological Services Field Office; 620 S. Walker Street; Bloomington, IN 47403.

FOR FURTHER INFORMATION CONTACT: Scott Pruitt, Field Supervisor, Bloomington, Indiana, Ecological Services Field Office, U.S. Fish and Wildlife Service, 620 South Walker Street, Bloomington, IN 47403; telephone: 812–334–4261, extension 214.

SUPPLEMENTARY INFORMATION: We have received an application from Wildcat Wind Farm I LLC (WWF) for an incidental take permit under the ESA (16 U.S.C. 1531 *et seq.*). If approved, the ITP would be for a 28-year period and would authorize incidental take of the endangered Indiana bat (*Myotis sodalis*) and the threatened northern long-eared bat (*Myotis septentrionalis*).

The applicant has prepared a draft HCP that covers the operation of the Wildcat Wind Farm (Wildcat). The project consists of a wind-powered electric generation facility located in an approximately 24,434-acre area in Madison and Tipton Counties, Indiana. The draft HCP describes the following: (1) Biological goals and objectives of the HCP; (2) covered activities; (3) permit duration; (4) project area; (5) alternatives to the taking that were considered; (5) public participation; (6) life history of the Indiana bat and northern long-eared bat; (6) quantification of the take for which authorization is requested; (7) assessment of direct and indirect effects of the taking on the Indiana bat within the Midwest Recovery Unit (as delineated in the 2007 Indiana Bat Draft Recovery Plan, Service) and rangewide; (8) assessment of direct and indirect effects of the taking on the northern long-eared bat within the Service's Midwest region and range wide; (9) conservation program consisting of avoidance and minimization measures, mitigation, monitoring, and adaptive management; (10) funding for the HCP; (11) procedures to deal with changed and unforeseen circumstances; and (12) methods for ITP amendments.

In addition to the draft HCP, the applicant has prepared a draft IA to document the responsibilities of the parties. The Service invites comment on the IA as well as the applicant's HCP.

Under the NEPA (43 U.S.C. 4321 *et seq.*) and the ESA, the Service announces that we have gathered the information necessary to:

1. Determine the impacts and formulate alternatives for an EA related to:
   a. Issuance of an ITP to the applicant for the take of the Indiana bat and the northern long-eared bat, and
   b. Implementation of the associated HCP; and
2. Evaluate the application for ITP issuance, including the HCP, which provides measures to minimize and mitigate the effects of the proposed incidental take of the Indiana bat and the northern long-eared bat.

Background

The WWF application is unusual in that the wind facility has been operational since 2012. The project includes 125 GE 1.6-megawatt (MW) wind turbines and has a total energy capacity of 200 MW. The need for the proposed action (*i.e.,* issuance of an ITP) is based on the potential that operation of the Wildcat Wind Farm could result in take of Indiana bats and northern long-eared bats.

The HCP provides a detailed conservation plan to ensure that the incidental take caused by the operation of the project will not appreciably reduce the likelihood of the survival and recovery of the Indiana bat and northern long-eared bat, and provides mitigation to fully offset the impact of the taking. Further, the HCP provides a long-term monitoring and adaptive management strategy to ensure that the ITP terms are satisfied, and to account for changed and unforeseen circumstances.

Purpose and Need for Action

In accordance with NEPA, the Service has prepared an EA to analyze the impacts to the human environment that would occur if the requested ITP were issued and the associated HCP were implemented.

Proposed Action

Section 9 of the ESA prohibits the "taking" of threatened and endangered species. However, provided certain criteria are met, the Service is authorized to issue permits under section 10(a)(1)(B) of the ESA for take of federally listed species when, among other things, such a taking is incidental to, and not the purpose of, otherwise lawful activities. Under the ESA, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect endangered and threatened species, or to attempt to engage in any such conduct. Our implementing regulations define "harm" as an act which actually kills or injures wildlife, and such act may include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). Harass, as defined, means "an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering" (50 CFR 17.3).

The HCP analyzes, and the ITP would cover, take from harassment and harm, and killing of bats due to the operation of the Wildcat project. If issued, the ITP would authorize incidental take consistent with the applicant's HCP and the ITP. To issue the ITP, the Service must find that the application, including its HCP, satisfies the criteria of section 10(a)(1)(B) of the ESA and the Service's implementing regulations at 50 CFR parts 13 and 17.22. If the ITP is issued, the applicant would receive assurances under the Service's No Surprises policy, as codified at 50 CFR 17.22(b)(5).

The applicant proposes to operate a maximum of 125 wind turbines and associated facilities (described below) for a period of 28 years in Madison and Tipton Counties, Indiana. The project will consist of wind turbines, associated access roads, an underground and aboveground electrical collector system, one substation containing transformers that feed electricity into an existing 138-kilovolt (kV) electrical tie-in line (an approximately 1.5-mile-long line that connects the substation to the switching station), three permanent meteorological towers, and an operations and maintenance building. Project facilities and infrastructure is placed on private land via long-term easement agreements between the applicant and respective landowners.

The draft HCP describes the impacts of take associated with the operation of the Wildcat Wind Farm and includes measures to avoid, minimize, mitigate, and monitor the impacts of incidental take on the Indiana bat and the northern long-eared bat. The applicant will mitigate for take and associated impacts through protection and restoration of maternity colony habitat at one or more documented maternity colonies. Maternity colony habitat mitigation, including any restored habitat, will occur on private land and be permanently protected by restrictive covenants approved by the Service. Chapter 5 of the HCP describes the Conservation Program, including details of avoidance and minimization measures, compensatory mitigation, and adaptive management that will limit and mitigate for the take of Indiana bats and northern long-eared bats.

The Service is soliciting information regarding the adequacy of the HCP to avoid, minimize, mitigate, and monitor the proposed incidental take of the covered species and to provide for adaptive management. In compliance with section 10(c) of the ESA (16 U.S.C. 1539(c)), the Service is making the ITP application materials available for public review and comment as described above.

We invite comments and suggestions from all interested parties on the draft documents associated with the ITP application (HCP, HCP Appendices, and IA), and request that comments be as specific as possible. In particular, we request information and comments on the following topics:

1. Whether adaptive management and monitoring provisions in the Proposed Action alternative are sufficient;
2. Any threats to the Indiana bat and the northern long-eared bat that may influence its population over the life of the ITP that are not addressed in the draft HCP or draft EIS;
3. Any new information on white-nose syndrome effects on the Indiana bat and the northern long-eared bat; and
4. Any other information pertinent to evaluating the effects of the proposed

action on the Indiana bat and the northern long-eared bat.

Alternatives in the Draft EA

The DEA contains an analysis of four alternatives: (1) No Action alternative, in which all 125 turbines would be feathered up to 5.0 meters per second (m/s) from ½ hour before sunset to ½ hour after sunrise from March 15 through May 15, and all turbines would be feathered up to 6.9 m/s from ½ hour before sunset to ½ hour after sunrise from August 1 through October 15, the primary spring and fall migratory periods of the Indiana bat and the northern long-eared bat, each year during the operational life (27 years) of Wildcat; (2) the 5.0 m/s Cut-In Speed (feathered) Alternative including implementation of the HCP and Issuance of a 28-year ITP; (3) the 6.5 m/s Cut-In Speed (feathered) Alternative, including implementation of the HCP and issuance of a 28-year ITP; and (4) the 4.0 m/s Cut-In Speed (Feathered) Alternative, including implementation of the HCP and Issuance of a 28-year ITP. The DEA considers the direct, indirect, and cumulative effects of the alternatives, including any measures under the Proposed Action alternative intended to minimize and mitigate such impacts. The DEA also identifies three additional alternatives that were considered but were eliminated from consideration as detailed in Section 3.4 of the DEA.

The Service invites comments and suggestions from all interested parties on the content of the DEA. In particular, information and comments regarding the following topics are requested:

1. The direct, indirect, or cumulative effects that implementation of any alternative could have on the human environment;
2. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed; and
3. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

Public Comments

You may submit your comments and materials concerning the notice by one of the methods listed in **ADDRESSES**. We request that you send comments only by one of the methods described in **ADDRESSES**.

Comments and materials we receive, as well as documents associated with the notice, will be available for public inspection by appointment, during normal business hours, at the Indiana Ecological Services Field Office in Bloomington, Indiana (see **FOR FURTHER INFORMATION CONTACT**).

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22), the NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46), and the NHPA (16 U.S.C. 470 *et seq.*) and its implementing regulations (36 CFR 800).

Dated: May 25, 2016.

Lynn Lewis,

Assistant Regional Director, Ecological Services, Midwest Region.

[FR Doc. 2016–14566 Filed 6–17–16; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–R–2016–N061; FXRS282108E8PD0–167–F2013227943]

South Bay Salt Pond Restoration Project, Phase 2 at the Eden Landing Ecological Reserve; Intent To Prepare an Environmental Impact Statement/Environmental Impact Report

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; announcement of meeting; request for public comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (USFWS), in coordination with the California Department of Fish and Wildlife (CDFW), are preparing a joint environmental impact statement/environmental impact report (EIS/EIR) for the proposed restoration of ponds at the CDFW's Eden Landing Ecological Reserve (Reserve) in Alameda County, California. We intend to gather information necessary to prepare an EIS pursuant to the National Environmental Policy Act (NEPA). We encourage the public and other agencies to participate in the NEPA scoping process by attending the public scoping meeting and/or by sending written suggestions and information on the issues and concerns that should be addressed in the draft EIS/EIR, including the range of alternatives, appropriate mitigation measures, and the nature and extent of potential environmental impacts.

DATES:

Submitting Comments: To ensure that we have adequate time to evaluate and incorporate suggestions and other input, we must receive your comments on or before July 20, 2016.

Public Scoping Meeting: A public scoping meeting will be held on Thursday, June 30, 2016, from 1:00 p.m. to 3:00 p.m., at Don Edwards San Francisco Bay National Wildlife Refuge Headquarters—Third Flood Auditorium located at 1 Marshlands Road, Fremont, California, 94555. The details of the public scoping meeting will be posted on the SBSP Restoration Project's Web site (*http://www.southbayrestoration.org/events/*). Scoping meeting details will also be emailed to the Project's Stakeholder Forum and to those interested parties who request to be notified. Notification requests can be made by emailing the SBSP Restoration Project's public outreach coordinator, Ariel Ambruster, at *aambrust@ccp.csus.edu* (email) or 510–815–7111 (phone).

Reasonable Accommodations: Persons needing reasonable accommodations in order to attend and participate in the public scoping meeting should contact Ariel Ambruster at least 1 week in advance of the meeting to allow time to process the request.

ADDRESSES:

Submitting Comments: Send written comments to Chris Barr, Deputy Complex Manager, Don Edwards San Francisco Bay National Wildlife Refuge, 1 Marshlands Road, Fremont, CA 94555, or to Scott Wilson, CDFW Regional Manager, Bay Delta Region, Silverado Trail, Napa, CA 94558.

Alternatively, you may send written comments by facsimile to 510–792–5828, or via the Internet through the public comments link on the SBSP Restoration Project Web site at *www.southbayrestoration.org/Question_Comment.html*. Your correspondence should indicate which issue your comments pertain to.

Mailing List: To have your name added to our mailing list, contact Ariel Ambruster; telephone (510) 815–7111; email *aambrust@ccp.csus.edu*.

FOR FURTHER INFORMATION CONTACT: Chris Barr, Refuge Manager, USFWS, 510–792–0222 (phone).

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (USFWS), in coordination with the California Department of Fish and Wildlife (CDFW), are preparing a joint environmental impact statement/environmental impact report (EIS/EIR) for the proposed restoration of ponds E1, E1C, E2, E2C, E4, E4C, E5, E5C, E6, E6C, and E7 at the CDFW's Eden Landing Ecological Reserve (Reserve) in Alameda County, California.

Phase 2 of the SBSP Restoration Project at Eden Landing is intended to restore and enhance a mix of approximately 2,300 acres of wetland habitats while simultaneously providing flood protection and wildlife-oriented public access and recreation in the South Bay.

We intend to gather information necessary to prepare an EIS pursuant to the National Environmental Policy Act (NEPA). We encourage the public and other agencies to participate in the NEPA scoping process by attending the public scoping meeting and/or by sending written suggestions and information on the issues and concerns that should be addressed in the draft EIS/EIR, including the range of alternatives, appropriate mitigation measures, and the nature and extent of potential environmental impacts.

Background

The SBSP Restoration Project is located in the San Francisco Bay, in northern California. The project is a multiagency, multiphase effort to restore and enhance a mix of wetland habitats while simultaneously providing flood protection and wildlife-oriented public access and recreation in the South Bay. The SBSP Restoration Project as a whole contains over 15,000 acres of former industrial salt production ponds in three complexes: The Ravenswood pond complex, the Alviso pond complex, and the Eden Landing pond complex. The Ravenswood and Alviso pond complexes are owned and managed by the U.S. Fish and Wildlife Service as part of the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge). The Eden Landing Ecological Reserve (Reserve) is owned by the California Department of Fish and Wildlife (CDFW).

In 2007, the USFWS and the CDFW published a Final EIS/EIR for the SBSP Restoration Project (72 FR 71937–71939). The SBSP Restoration project presented in the Final EIS/EIR was both programmatic, covering a 50-year period, as well as project-level, addressing the specific components and implementation of Phase 1. Both the USFWS and the CDFW selected the Tidal Emphasis Alternative (Alternative C) for implementation. Alternative C represents a goal of 90 percent of the salt ponds restored to tidal action and 10 percent restored to managed ponds. This ratio of restoration is guided by the Adaptive Management Plan. Implementation of Phase 1 actions began in 2008 and was completed in 2016. The northern half of the Eden Landing pond complex was addressed in Phase 1 and is now complete.

The Phase 2 actions at the Alviso and Ravenswood pond complexes were considered in a separate project-level EIS/EIR, the draft of which was published in August of 2015 and is expected to be finalized in the summer of 2016.

Proposed Action

The CDFW now proposes restoration or enhancement of approximately 2,300 acres of former salt ponds in the southern half of the CDFW-owned Eden Landing pond complex. Phase 2 project-level actions to be evaluated in this EIS/EIR are project-level habitat restoration of approximately 2,300 acres of former salt ponds, while also providing recreation and public access opportunities, and maintaining or improving current levels of flood protection in the surrounding communities.

Habitat restoration actions evaluated in the EIS/EIR may include the following:

- Breaching levees at one or more locations to allow tidal flows into the ponds.
- Adding water control structures to allow some ponds to be retained as enhanced managed ponds for pond-dependent bird species.
- Increasing habitat complexity by adding deep-water channels, islands, and/or habitat transition zones.
- Modifying pond bottom elevations or topography to redirect tidal flows.
- Using dredged or upland fill material to speed marsh vegetation establishment.

Recreation and public access actions may include the following:

- Maintain the existing trail that runs along the top of the large Federal levee that forms the southern edge of the complex. This may involve constructing bridge(s) over any changes that are made to that levee.
- Complete the Bay Trail spine along the eastern edge of the pond complex.
- Adding a spur trail along the northern edge of Pond E6 from the Bay Trail spine to the site of the former Alvarado Salt Works.
- Convert the above spur trail into a loop by building a footbridge over Old Alameda Creek and a trail back to the Bay Trail spine.

Flood protection may include:

- Raising and improving existing levees or berms or making other improvements to maintain or increase coastal flood risk protection.

Alternatives

The EIS/EIR will consider a range of alternatives and their impacts, including the No Action/No Project Alternative. Scoping is designed to be an early and open process to determine the issues and alternatives to be addressed in the EIS/EIR. The range of alternatives may include varying approaches to restoring and enhancing a mix of wetland habitats, as well as varying levels and means of flood management, and recreation and public access components which correspond to the project objectives.

The Phase 2 EIS/EIR for Eden Landing will identify the anticipated effects of the alternatives (both negative and beneficial) and describe and analyze direct, indirect, and cumulative impacts of each alternative.

NEPA Compliance

This EIS/EIR is a project-level environmental document that is tiered from the programmatic portion of the 2007 Final EIS/EIR for the SBSP Restoration Project. Information gathered through this scoping process will assist us in developing a reasonable range of alternatives to continue to address the restoration of Eden Landing salt ponds and collaborative integration with adjacent landowners and operators of public infrastructure.

A detailed description of the proposed action and alternatives will be included in the EIS/EIR. For each issue or potential impact identified, the EIS/EIR will include a discussion of the parameters used in evaluating the impacts as well as recommended mitigation, indicating the effectiveness of mitigation measures proposed to be implemented and what, if any, additional measures would be required to reduce the degree of impact. The EIS/EIR will include an analysis of the restoration, flood management, and recreation and public access components associated with the proposed restoration.

We will conduct environmental review in accordance with the requirements of NEPA, as amended (42 U.S.C. 4321 *et seq.*), its implementing regulations (40 CFR parts 1500–1508), other applicable regulations, and our procedures for compliance with those regulations. The environmental document will be prepared to meet both the requirements of NEPA and the California Environmental Quality Act (CEQA). The CDFW is the CEQA lead agency and USFWS is the lead agency under NEPA. We are the NEPA lead agency because we provide a variety of biological monitoring, financial and management support on this CDFW unit. We anticipate that a Draft EIS/EIR will be available for public review in November 2016.

Public Comment

We are furnishing this notice in accordance with section 1501.7 of the NEPA implementing regulations to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS/EIR. We invite written comments from interested parties to ensure identification of the full range of issues.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in you comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Scoping Meeting

In addition to providing written comments, the public is encouraged to attend a public scoping meeting on Thursday, June 30, 2016, to provide us with suggestions and information on the scope of issues and alternatives to consider when drafting the EIS/EIR. The location of the public scoping meeting is provided in **DATES**.

Persons needing reasonable accommodations in order to attend and participate in the public meeting should contact us at the address in **ADDRESSES** no later than 1 week before the public meeting. Information regarding the proposed restoration is available in alterative formats upon request. We will accept written comments at the scoping meeting or afterwards.

Alexandra Pitts,

Acting Regional Director, Pacific Southwest Region.

[FR Doc. 2016–14565 Filed 6–17–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2016–N097; FXES11130800000–167–FF08E00000]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing recovery permits to conduct certain activities with endangered species.

DATES: Comments on these permit applications must be received on or before July 20, 2016.

ADDRESSES: Written data or comments should be submitted to the Endangered Species Program Manager, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist; see **ADDRESSES** (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*). We seek review and comment from local, State, and Federal agencies and the public on the following permit requests.

Applicants

Permit No. TE–080779

Applicant: Melissa Busby, San Diego, California

The applicant requests a permit renewal to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*); and take (harass by survey, capture, handle, release, collect vouchers, analyze soil samples, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–85448A

Applicant: East Bay Zoological Society, Oakland, California

The applicant requests a permit renewal to take (receive, handle, and administer veterinary treatment and care) the California condor (*Gymnogyps californianus*) in conjunction with general husbandry activities at the Oakland Zoo in Oakland, California, for the purpose of enhancing the species' survival.

Permit No. TE–170381

Applicant: Bill Stagnaro, San Francisco, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, and release) the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*); and take (harass by survey using taped vocalization callback) the California Ridgway's rail (California clapper r.) (*Rallus obsoletus obsoletus*) (*R. longirostris o.*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–94719B

Applicant: Richard Lis, Redding, California

The applicant requests a permit to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–94702B

Applicant: Kristin Hubbard, Redding, California

The applicant requests a permit to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–94998A

Applicant: Leonard Liu, Oakland, California

The applicant requests a permit renewal to take (harass by survey using taped vocalization callback) the California Ridgway's rail (California clapper r.) (*Rallus obsoletus obsoletus*) (*R. longirostris o.*) in conjunction with survey activities in Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, Santa Clara, San Mateo, and San Francisco Counties, California, for the purpose of enhancing the species' survival.

Permit No. TE–174305

Applicant: Vandenberg Air Force Base, Vandenberg AFB, California

The applicant requests a permit renewal to take (harass by survey, and locate and monitor nests) the California least tern (*Sternula antillarum browni*) (*Sterna a. browni*); take (harass by survey, locate and monitor nests, and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in Santa Barbara County, California; and remove/reduce to possession *Nasturtium gambelii* (*Rorippa g.*) (Gambel's watercress), *Deinandra increscens* subsp. *villosa* (Gaviota tarplant), *Layia carnosa* (beach layia), *Eriodictyon capitatum* (Lompoc yerba santa), *Cirsium loncholepis* (La Graciosa thistle), and *Diplacus vandenbergensis* (Vandenberg monkeyflower) from Federal lands in Santa Barbara County, California, in conjunction with survey and research activity for the purpose of enhancing the species' survival.

Permit No. TE–789255

Applicant: Robert Patton, San Diego, California

The applicant requests a permit renewal to take (harass by survey, locate and monitor nests, handle/mark eggs, capture, band, and release) the California least tern (*Sternula antillarum browni*) (*Sterna a. browni*) in conjunction with survey and population monitoring activities in San Diego County, California, for the purpose of enhancing the species' survival.

Permit No. TE–118356

Applicant: Olofson Environmental, Inc., Oakland, California

The applicant requests a permit renewal to take (harass by survey using taped vocalization callback) the California Ridgway's rail (California clapper r.) (*Rallus obsoletus obsoletus*) (*R. longirostris o.*) in conjunction with survey activities in Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, Santa Clara, San Mateo, and San Francisco Counties, California, for the purpose of enhancing the species' survival.

Permit No. TE–036550

Applicant: Nina Jimerson-Kidd, Murrieta, California

The applicant requests a permit renewal to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–157199

Applicant: Julie Stout, San Diego, California

The applicant requests a permit renewal to take (harass by survey, and locate and monitor nests) the California least tern (*Sternula antillarum browni*) (*Sterna a. browni*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Public Comments

We invite public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Angela Picco,

Acting Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2016–14424 Filed 6–17–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2016–N091; FXES11120808BYD–167–FF08FBDTOO]

Proposed Low-Effect Habitat Conservation Plan for the Valley Elderberry Longhorn Beetle and Giant Garter Snake; South River Pump Station, Yolo County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of permit application; proposed low-effect habitat conservation plan; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from the Sacramento Regional County Sanitation District (applicant) for a 5-year incidental take permit under the endangered Species Act of 1973, as amended (Act). The application addresses the potential for "take" of two listed animals, the valley elderberry longhorn beetle and giant garter snake, likely to result from the construction of a new flood protection levee and raised all-weather access road around the existing South River Pump Station. The applicant would implement a conservation program to minimize and mitigate the project activities, as described in the applicant's low-effect habitat conservation plan (HCP). We request comments on the application package, which includes the HCP and our preliminary determination that the HCP qualifies as a "low-effect" HCP, eligible for a categorical exclusion under the National Environmental Policy Act of 1969, as amended (NEPA). We discuss our basis for this determination in our environmental action statement (EAS), also available for public review.

DATES: To ensure consideration, please send your written comments by July 20, 2016.

ADDRESSES:

Submitting Comments: Please address written comments to Lori Rinek, Section 10 Coordinator, U.S. Fish and Wildlife Service, Bay-Delta Fish and Wildlife Office, 650 Capitol Mall, Suite 8–300, Sacramento, CA 95814. Alternatively, you may send comments by facsimile to (916) 930–5654.

Reviewing Documents: You may obtain copies of the HCP and EAS from the individuals in **FOR FURTHER INFORMATION CONTACT**, or from the Bay-Delta Fish and Wildlife Office Web site at *http://www.fws.gov/sfbaydelta*. Copies of these documents are also available for public inspection, by appointment, during regular business hours, at the Bay-Delta Fish and Wildlife Office.

FOR FURTHER INFORMATION CONTACT: Lori Rinek, at the address shown above or at (916) 930–5603.

SUPPLEMENTARY INFORMATION:

Introduction

We have received an application from the Sacramento Regional County Sanitation District (applicant) for a 5-year incidental take permit under the endangered Species Act of 1973, as amended (Act). The application addresses the potential for "take" of two listed animals, the valley elderberry longhorn beetle and giant garter snake, likely to result from the construction of a new flood protection levee and raised all-weather access road around the existing South River Pump Station. Below we refer to both species, collectively, as the covered species. The applicant would implement a conservation program to minimize and mitigate the project activities, as described in the applicant's low-effect habitat conservation plan (HCP). We request comments on the application package, which includes the HCP, and our preliminary determination that the HCP qualifies as a "low-effect" HCP, eligible for a categorical exclusion under the National Environmental Policy Act of 1969, as amended (NEPA). We discuss our basis for this determination in our environmental action statement (EAS), also available for public review.

Background Information

Section 9 of the Act (16 U.S.C. 1531–1544 *et seq.*) and our regulations in the Code of Federal Regulations (50 CFR 17) prohibit the taking of fish and wildlife species listed as endangered or threatened under section 4 of the Act. Take of federally listed fish or wildlife is defined under the Act as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct. The term "harass" is defined in the regulations as to carry out actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). The term "harm" is defined in the regulations as significant habitat modification or degradation that results in death or injury of listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). However, under specified circumstances, the Service may issue permits that allow the take of federally listed species, provided that the take that occurs is incidental to, but not the purpose of, an otherwise lawful activity.

Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. Section 10(a)(1)(B) of the Act contains provisions for issuing such incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

(1) The taking will be incidental;

(2) The applicants will, to the maximum extent practicable, minimize and mitigate the impact of such taking;

(3) The applicants will develop a proposed HCP and ensure that adequate funding for the HCP will be provided;

(4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and

(5) The applicants will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

Proposed Project

The draft HCP addresses potential effects to the covered species that may result from the proposed activities. The applicant seeks incidental take authorization for covered activities within the 136.4-acre South River Pump Station site, located at 30030 South River Road, in Sacramento County, California. The federally threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) (VELB) and the federally threatened giant garter snake (*Thamnophis gigas*) (GGS) are the covered species in the applicant's proposed HCP.

The applicant would seek incidental take authorization for these two covered species and would receive assurances under our "No Surprises" regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

Proposed Covered Activities

Construction of a new flood protection levee and raised all-weather access road will result in the permanent removal of 23 elderberry shrubs, considered potential habitat for the VELB, and temporary impacts to 10.775 acres of riparian scrub, ruderal, annual grassland, agricultural crop, and urban vegetation communities considered upland habitat for GGS. The following actions are proposed as the "covered activities" under the HCP: Site preparation; tree removal; transplanting elderberry shrubs, embankment degrade; excavation of inspection trench and borrow material; construction of the levee; construction and removal of temporary access road (if needed); construction of access roads, maintenance roads, and a permanent access road for the borrow site; and site restoration. The applicant seeks a 5-year permit to cover the activities associated with this proposed construction within the 136.4-acre project site.

Proposed Mitigation Measures

The applicant proposes to avoid, minimize, and mitigate the effects to the covered species associated with the covered activities by fully implementing the HCP. The applicant will satisfy the mitigation requirements by purchasing 55 VELB credits from a USFWS-approved conservation bank and transplanting the removed elderberry shrubs to the conservation bank, and by restoring temporarily impacted upland GGS habitat to pre-project conditions within the same calendar year (Option 1). If final restoration of a portion of the temporarily impacted upland GGS habitat occurs the calendar year following the initial impact, then the applicant will satisfy additional mitigation requirements by dedicating 0.780 acre of created GGS habitat at the South Stone Lake Giant Garter Snake Mitigation Preserve or through the purchase of mitigation credits from a USFWS-approved conservation/mitigation bank (Option 2). To minimize effects to VELB, the applicant is proposing to implement the avoidance and minimization measures outlined in the *Formal Programmatic Consultation for Projects with Relatively Small Effects on the VELB* (USFWS 1996a) and the *Conservation Guidelines for the VELB* (USFWS 1999a). To minimize effects to GGS, the applicant is proposing to implement the avoidance, minimization, and conservation measures as specified in Appendix C of the *Programmatic Formal Consultation for U.S. Army Corps of Engineers 404 Permitted Projects with Relatively Small Effects on the Giant Garter Snake within Butte, Colusa, Glenn, Fresno, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter and Yolo Counties, California* (USFWS 1997).

Proposed Action and Alternatives

Our proposed action (see below) is approving the applicant's HCP and issuance of an incidental take permit for take resulting from implementation of the covered activities. As required by the Act, the applicant's HCP considers alternatives to the take under the proposed action. The HCP considers the environmental consequences of two alternatives to the proposed action: (1) The No Action Alternative; and (2) the West Borrow Site Alternative.

No Action Alternative

Under the No-Action Alternative, we would not issue an incidental take permit, the applicant would not build the flood protection levee and access road, the elderberry shrubs and upland GGS habitat would not be disturbed, and the applicant would not implement proposed mitigation measures. While this No-Action Alternative would avoid take of the covered species, it is considered infeasible because should a significant flood event occur along the Sacramento River, sewer service could be impacted for thousands of customers in the communities that Sacramento Regional County Sanitation District serves. For this reason, the No-Action Alternative has been rejected.

West Borrow Site Alternative

Under the West Borrow Site Alternative, the borrow material necessary to construct the flood protection levee would be procured from an agricultural field located to the west of the project site, and an alternative haul road would need to be constructed. The West Borrow Site Alternative would impact the same number of elderberry shrubs and acreage of GGS upland habitat as the Proposed Action Alternative. In addition to those impacts, there would be 0.422 acre of GGS aquatic habitat impacts associated with construction of the alternative haul road, as well as an additional 19.58 acres of GGS upland habitat impacts. For this reason, the West Borrow Site Alternative has been rejected.

Proposed Action

Under the Proposed Action Alternative, we would issue an incidental take permit for the applicant's proposed project, which includes the activities described above. The Proposed Action Alternative would result in the permanent removal of 23 elderberry shrubs, considered potential habitat for the VELB and temporary impacts to 10.775 acres of upland habitat for GGS. To mitigate for these effects, the applicant proposes to purchase 55 VELB credits from a USFWS-approved conservation bank and transplant the removed elderberry shrubs to the conservation bank, and restore temporarily impacted upland GGS habitat to pre-project conditions within the same calendar year (Option 1). If final restoration of a portion of the temporarily impacted upland GGS habitat occurs the calendar year following the initial impact, then the applicant will satisfy additional mitigation requirements, in addition to what is proposed in Option 1, by dedicating 0.780 acre of created GGS habitat at the South Stone Lake Giant Garter Snake Mitigation Preserve or through the purchase of mitigation credits from a USFWS-approved conservation/mitigation bank (Option 2).

National Environmental Policy Act

We made a preliminary determination that the applicants' project, including the mitigation measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, issuance of the ITP is a "low-effect" action and qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA) (40 CFR 1506.6), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1).

Determination of whether a habitat conservation plan qualifies as a low effect is based on the following three criteria: (1) Implementation of the proposed HCP would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the proposed HCP would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the HCP, considered together with the other past, present, and reasonably foreseeable projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant. Based upon the preliminary determinations in the EAS, we do not intend to prepare further NEPA documentation. We will consider public comments when making the final determination on whether to prepare an additional NEPA document on the proposed action.

Public Comments

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice. We particularly seek comments on the following:

(1) Our preliminary determination that the applicant's proposal will have a minor or negligible effect on the valley elderberry longhorn beetle and giant garter snake and the HCP qualifies as a low-effect HCP.

(2) Biological information concerning the species;

(3) Relevant data concerning the species;

(4) Additional information concerning the range, distribution, population size, and population trends of the species;

(5) Current or planned activities in the subject area and their possible impacts on the species; and

(6) Identification of any other environmental issues that should be considered with regard to the proposed project and permit action.

You may submit your comments and materials by one of the methods listed above in **ADDRESSES**. Comments and materials we receive, as well as supporting documentation we used in preparing the EAS, will be available for public inspection by appointment, during normal business hours, at our office (see **FOR FURTHER INFORMATION CONTACT**).

Public Availability of Comments

Before including your address, phone number, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—might be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Next Steps

We will evaluate the permit application, including the HCP and comments we receive, to determine whether the application meets the requirements of section 10(a) of the Act. We will also evaluate whether issuance of the incidental take permit would comply with section 7(a)(2) of the Act by conducting an intra-Service consultation pursuant to section 7(a)(2) of the Act. If the requirements are met, we will issue a permit to the applicant for the incidental take of the valley elderberry longhorn beetle and giant garter snake from the implementation of the covered activities described in the low-effect Habitat Conservation Plan for the valley elderberry longhorn beetle and giant garter snake, South River Pump Station, Sacramento, California. We will make the final permit decision no sooner than 30 days after publication of this notice in the **Federal Register**.

Authority

We publish this notice under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347 *et seq.*; NEPA), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1500–1508, as well as in compliance with section 10(c) of the Endangered Species Act (16 U.S.C. 1531–1544 *et seq.*; Act).

Kaylee Allen,

Field Supervisor, Bay-Delta Fish and Wildlife Office, Sacramento, California.

[FR Doc. 2016–14567 Filed 6–17–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2016–N103]

Receipt of Applications for Endangered Species Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless a Federal permit is issued that allows such activities. The ESA requires that we invite public comment before issuing these permits.

DATES: We must receive written data or comments on the applications at the address given below by July 20, 2016.

ADDRESSES: Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services, 1875 Century Boulevard, Suite 200, Atlanta, GA 30345 (Attn: Karen Marlowe, Acting Permit Coordinator).

FOR FURTHER INFORMATION CONTACT: Karen Marlowe, Acting 10(a)(1)(A) Permit Coordinator, telephone 205–726–2667; facsimile 205–726–2479.

SUPPLEMENTARY INFORMATION: The public is invited to comment on the following applications for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR 17. This notice is provided under section 10(c) of the Act.

If you wish to comment, you may submit comments by any one of the following methods. You may mail comments to the Fish and Wildlife Service's Regional Office (see **ADDRESSES** section) or send them via electronic mail (email) to *permitsR4ES@fws.gov*. Please include your name and return address in your email message. If you do not receive a confirmation from the Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed above (see **FOR FURTHER INFORMATION CONTACT**). Finally, you may hand-deliver comments to the Fish and Wildlife Service office listed above (see **ADDRESSES**).

Before including your address, telephone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Permit Applications

Permit Application Number: TE 56749B–1

Applicant: Patrick R. Moore, Little Rock, AR

The applicant requests an amendment of his current permit to add authorization to take (enter hibernacula or maternity roost caves, salvage dead bats, capture with mist nets or harp traps, handle, identify, collect hair samples, band, radio tag, light-tag, swab, and wing-punch) Virginia big-eared bat (*Corynorhinus (=plecotus) townsendii virginianus*) in addition to conducting those activities with the Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), northern long-eared bat (*Myotis septentrionalis*), and Ozark big-eared bat (*Corynorhinus townsendii ingens*) and to add authorization to conduct all activities in the states of Minnesota, Wisconsin, Maryland, Vermont, New Jersey, and Delaware for scientific research aimed at recovery of the species, such as presence/absence surveys, studies to document habitat use, population monitoring, and evaluation of potential impacts of white-nose syndrome or other threats.

Permit Application Number: TE 125557–2

Applicant: Barbara P. Allen, Gulf Shores, AL

The applicant requests renewal of her permit to continue the following activities: Take (monitor nests, excavate, temporarily retain nestlings, and relocate) Kemp's ridley sea turtles (*Lepidochelys kempii*), loggerhead sea turtles (*Caretta caretta*), and green sea turtles (*Chelonia mydas*) for purposes of monitoring and protecting nests; take (capture, mark, and release); Alabama beach mice (*Peromyscus polionotus ammobates*) and Perdido Key beach mice (*Peromyscus polionotus trissyllepsis*) for presence/absence surveys; and take (scope burrows) gopher tortoises (*Gopherus polyphemus*) for presence/absence surveys in Baldwin and Mobile Counties, Alabama.

Permit Application Number: TE 070796–8

Applicant: Apogee Environmental & Archaeological, Inc., Whitesburg, KY

The applicant requests an amendment of their current permit to take (capture with mist net or harp trap, enter hibernacula and roosts, band; radio-tag; and wing punch) Ozark big-eared bat (*Corynorhinus townsendii ingens*) for the purpose of conducting presence/absence surveys throughout the range of the species.

Permit Application Number: TE 98532B–0

Applicant: John A. Fridell, Weaverville, NC

The applicant requests a permit to take (capture, identify, tag, release, and salvage relict shells) Appalachian elktoe (*Alasmidonta raveneliana*), Carolina heelsplitter (*Lasmigona decorata*), dwarf wedgemussel (*Alasmidonta heterondon*), James River spinymussel (*Pleurobema collina*), little-wing pearlymussel (*Pegias fabula*), Tar River spinymussel (*Elliptio steinstansana*), and noonday globe (*Patera clarki nantahala*) in North Carolina and South Carolina for qualitative and quantitative surveys, relocation and monitoring efforts, and other scientific research to promote management and recovery of the species.

Permit Application Number: TE 810274–12

Applicant: Eco-Tech Consultants, Inc., Frankfort, KY

The applicant requests renewal of their permit to take (enter hibernacula or maternity roost caves, salvage dead bats, capture with mist nets or harp traps, handle, identify, collect hair samples, band, radio-tag, light-tag, and wing-punch) Indiana bats (*Myotis sodalis*), gray bats (*Myotis grisescens*), Virginia big eared bats *(Corynorhinus townsendii virginianus*), northern long eared bats (*Myotis septentrionalis*), and Ozark big-eared bats (*Corynorhinus townsendii ingens*) while conducting presence/absence surveys, studies to document habitat use, and population monitoring; take (capture, identify, release) blackside dace (*Phoxinus cumberlandensis*), Citico darter (*Etheostoma sitikuense*), Cumberland arrow darter (*Etheostoma sagitta sagitta*), Cumberland darter (*Etheostoma *susannae*), diamond darter (*Crystallaria cincotta*), duskytail darter (*Etheostoma percnurum*), Kentucky arrow darter (*Etheostoma sagitta spilotum*), marbled darter (*Etheostoma marmorpinnum*), palezone shiner (*Notropis albizonatus*), snail darter (*Percina tanasi*), and tuxedo darter (*Etheostoma lemniscatum*) while conducting presence/absence surveys; and take (capture, identify, release, collect relict shells) 53 endangered and threatened species of freshwater mussels while conducting presence/absence surveys. Activities are permitted in 39 states.

Permit Application Number: TE 114069–3

Applicant: Fairchild Tropical Botanic Garden, Coral Gables, FL

The applicant requests renewal and amendment of their current permit to continue collection of seeds and cuttings (removal and reduction to possession) of Key tree cactus (*Pilosocereus robinii*), Garber's spurge (*Chamaesyce garberi*), Cape Sable thoroughwort (*Chromolaena frustrate*), Vahl's boxwood (*Buxus vahlii*), *Catesbaea melanocarpa* (no common name), and *Agave eggersiana* (no common name) and add authorization to collect seeds and cuttings of Florida semaphore cactus (*Consolea corallicola*), *Calyptranthes thomasiana* (no common name), and St. Thomas prickly ash (*Zanthoxylum thomasianum*), along with the proposed endangered sand flax (*Linum arenicola*), Big Pine partridge pea (*Chamaecrista lineata* var. *keyensis*), wedge spurge (*Euphorbia* (*Chamaesyce*) *deltoidea* ssp. *serpyllum*), and the proposed threatened Blodgett's silverbush (*Argythamnia blodgetii*) from Key West National Wildlife Refuge, Crocodile Lake National Wildlife Refuge, National Key Deer Refuge, Everglades National Park, and Virgin Islands National Park for propagation, conducting genetic studies, and long-term seed storage.

Permit Application Number: TE 089074–3

Applicant: Corblu Ecology Group, LLC, Woodstock, GA

The applicant requests renewal of their permit to take (capture, identify, release) blue shiner *(Cyprineila caerulea),* Etowah darter *(Etheostoma etowahae),* Cherokee darter *(Etheostoma scotti),* amber darter (*Percina antesella),* goldline darter (*Percina aurolineata),* Conasauga logperch (*Percina jenkinsi*), eastern indigo snake (*Drymarchon corais couperi)* and take (capture, identify, release, collect relict shells) Coosa moccasinshell *(Medionidus parvulus),* fine-lined pocketbook *(Lampsilis altilis),* southern pigtoe *(Pleurobema georgianum),* Alabama moccasinshell (*Medionidus acutissimus*), fat threeridge *(Amblema neisleri*), purple bankclimber *(Elliptoideus sloatianus*), shiny-rayed pocketbook *(Hamiota subangulata),* gulf moccasinshell (*Medionidus penicillatus),* oval pigtoe *(Pleurobema pyriforme),* and cylindrical lioplax *(Lioplax cyclostomaformis)* for presence/absence surveys in Georgia.

Permit Application Number: TE 98596B–0

Applicant: Sarah E. Veselka, Fairmont, WV

The applicant requests a permit to take (capture, handle, release) pink mucket pearly mussel *(Lampsilis abrupta),* northern riffleshell *(Epioblasma torulosa rangiana),* fanshell *(Cyprogenia stegaria),* clubshell *(Pleurobema clava),* snuffbox *(Epioblasma triquetra),* rayed bean *(Villosa fabalis),* spectaclecase *(Cumberlandia monodonta),* sheepnose *(Plethobasus cyphyus),* and rabbitsfoot *(Quadrula cylindrica cylindrica)* for presence/absence surveys throughout the species' ranges.

Permit Application Number: TE 064856–3

Applicant: Trent A. Farris, Gulf Shores, AL

The applicant requests renewal of his permit to take (trap, mark, examine, and release) Alabama beach mouse (*Peromyscus polionotus ammobates*), Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*), Choctawatchee beach mouse (*Peromyscus polionotus allophrys*), and St. Andrew beach mouse (*Peromyscus polionotus peninsularis*) for presence/absence surveys in Alabama and Florida.

Permit Application Number: TE 834070–3

Applicant: Point Defiance Zoo & Aquarium, Tacoma, WA

The applicant requests renewal of their current permit to continue to cooperate with the U.S. Fish and Wildlife Service in the captive propagation and reintroduction of the red wolf (*Canis rufus*), which may include take (capture, handle, tag, and release) in addition to the normal husbandry activities carried out by the permittee for which no permit is required.

Dated: June 13, 2016.

Leopoldo Miranda,

Assistant Regional Director, Ecological Services, Southeast Region.

[FR Doc. 2016–14552 Filed 6–17–16; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0080]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Notification of Change of Mailing or Premise Address

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until August 19, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Shawn Stevens, ATF Industry Liaison, Federal Explosives Licensing Center, 244 Needy Road, Martinsburg, WV 25405, at telephone: 304–616–4421. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection

1. *Type of Information Collection (check justification or form 83):* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Notification of Change of Mailing or Premise Address

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other (if applicable): None.

Abstract: During the term of a license or permit, a licensee or permittee may move his business or operations to a new address at which he intends to regularly carry on his business or operations, without procuring a new license or permit. However, in every case, the licensee or permittee shall notify the Chief, Federal Explosives Licensing Center of the change. This collection of information is contained in 27 CFR 555.54.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 1,000 respondents will take 10 minutes to respond.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 170 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: June 15, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–14463 Filed 6–17–16; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. GTCR Fund X/A AIV LP, et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *GTCR Fund X/A AIV LP et al.,* Civil Action No. 1:16–cv–01091. On June 10, 2016, the United States filed a Complaint alleging that GTCR and Cision's proposed acquisition of PR Newswire from UBM plc would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires the defendants to divest PR Newswire's Agility and Agility Plus business.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's Web site at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's Web site, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Scott A. Scheele, Chief, Telecommunications and Media Enforcement Section, Antitrust Division, Department of Justice, 450 Fifth Street NW., Suite 7000, Washington, DC 20530 (telephone: 202–616–5924).

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the District of Columbia

United States of America, Department of Justice, Antitrust Division, 450 5th Street NW., Suite 7000, Washington, DC 20530, Plaintiff, v. *GTCR Fund X/A AIV LP, 300 North LaSalle Street, Suite 5600, Chicago, IL 60654, Cision US Inc., 130 East Randolph Street, 7th Floor, Chicago, IL 60601, UBM PLC, Ogier House, The Esplanade, St. Helier, Jersey, JE4 9WG, PRN Delaware, Inc., 2 Penn Plaza, 15th Floor, New York, NY 10121,* and *PWW Acquisition LLC, 300 North LaSalle Street, Suite 5600, Chicago, IL 60654,* Defendants.

Case No.: 1:16–cv–01091
Judge: Thomas F. Hogan
Filed: 06/10/2016

COMPLAINT

The United States of America ("United States"), acting under the direction of the Attorney General of the United States, brings this civil action to enjoin the proposed acquisition of Defendant PRN Delaware, Inc. ("PRN"), a subsidiary of Defendant UBM plc ("UBM"), by Defendant GTCR Fund X/A AIV LP ("GTCR") through its subsidiary Defendant PWW Acquisition LLC ("PWW") (collectively, the "transaction"), and to obtain other equitable relief.

I. NATURE OF THE ACTION

1. Businesses, nonprofits, and other organizations rely on media contact databases to identify journalists and other influencers for public relations purposes. GTCR's subsidiary, Defendant Cision US Inc. ("Cision"), operates the dominant media contact database in the United States as part of its flagship public relations workflow software suite. As a result of the transaction, GTCR will acquire UBM's PR Newswire business, which operates the third largest media contact database in the United States as part of its public relations workflow software suites sold under the Agility and Agility Plus brands ("Agility"). Cision and Agility compete directly to serve media contact database customers throughout the United States.

2. Cision and Agility face limited competition in the sale of media contact databases in the United States. Only one other media contact database has gained more than a de minimis market share. Elimination of the competition between Cision and Agility would leave many customers in the United States with only two media contact database companies capable of fulfilling their

needs. The two remaining companies would have decreased incentives to discount their media contact database subscription prices during negotiations with prospective customers or improve their products to meet competition. As a result, the transaction would likely result in many consumers paying higher net prices and receiving lower quality products and services than they would absent the transaction.

3. Accordingly, the transaction likely would substantially lessen competition in the media contact database market in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18, and should be enjoined.

II. JURISDICTION, VENUE, AND INTERSTATE COMMERCE

4. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. 25, as amended, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

5. This Court has subject matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345. Defendants are engaged in interstate commerce and in activities substantially affecting interstate commerce. GTCR, through Cision and other subsidiaries, and UBM, through PRN and other subsidiaries, market and sell their respective products and services, including their public relations workflow software suites, throughout the United States and regularly transact business and transmit data in connection with these activities in the flow of interstate commerce.

6. Defendants have consented to venue and personal jurisdiction in this District. This Court has personal jurisdiction over each Defendant, and venue is proper under Section 12 of the Clayton Act, 15 U.S.C. 22, and 28 U.S.C. 1391(b) and (c).

III. THE DEFENDANTS AND THE TRANSACTION

7. GTCR is a private equity firm headquartered in Chicago, Illinois. GTCR owns Cision, a leading public relations workflow software company. Cision's U.S. revenues were approximately $227 million in 2015.

8. UBM is a global events marketing and communications services business headquartered in St. Helier, Jersey. UBM owns the PR Newswire business, a leading provider of commercial newswire services. PR Newswire's 2015 U.S. revenues totaled approximately $209 million.

9. Pursuant to a Purchase and Sale Agreement dated December 14, 2015, PWW—a subsidiary of GTCR—agreed to acquire PR Newswire from UBM for a base purchase price of $850 million. The transaction would result in GTCR becoming the new owner of Agility, eliminating it as an independent competitor in the media contact database market.

IV. TRADE AND COMMERCE

A. Relevant Product Market: Media Contact Databases

10. Media contact databases enable users to look up the contact information of one or more of the following classes of persons: Print journalists, broadcast journalists, online journalists, other journalists, or other "influencers" (*e.g.*, individuals that are influential on social media with respect to a given topic). Media contact databases typically also enable users to create customized lists of contacts they can then use for targeting outreach to particular groups of journalists and influencers important to the users. Customers typically purchase annual subscriptions to media contact databases at prices individually negotiated with public relations workflow software companies.

11. Media contact databases are essential to the day-to-day operations of many large companies and public relations agencies. Those organizations frequently need to maintain contact with a large number of journalists and influencers across a wide variety of media outlets. For such organizations, manually maintaining up-to-date lists of all relevant media contacts would be highly labor-intensive and imprecise. Thus, that approach does not present a viable alternative to purchasing access to a media contact database. On the other hand, Cision and PR Newswire have developed longstanding and collaborative relationships with media outlets that they can leverage to more efficiently update their media contact databases. They also have sizable user bases on which they can rely to identify and flag out-of-date contact information in their media contact databases.

12. Developing and maintaining a media contact database competitive with those offered by the three companies with more than a de minimis share would be highly costly and labor-intensive. To develop such a database, it would be necessary to compile contact information for at least several hundred thousand media contacts. In addition, after compiling that information, a media contact database company would need to incur significant ongoing costs to update that information frequently to ensure its accuracy.

13. Media contact databases constitute a relevant product market and line of commerce under Section 7 of the Clayton Act, 15 U.S.C. 18. GTCR, through Cision, and UBM, through PR Newswire, are participants in this market.

B. Relevant Geographic Market

14. The relevant geographic market is the United States. Customers in the United States generally require a database that provides comprehensive coverage of U.S.-based media contacts and value a domestic presence for sales, service, and support. A hypothetical monopolist of databases with U.S. based-media contacts and a U.S. presence would be able profitably to impose small but significant and non-transitory price increases on customers in the United States.

C. Anticompetitive Effects of the Transaction

15. Customers in the United States have few effective choices for media contact databases. For many customers, there are only three media contact databases with sufficiently robust and up-to-date coverage of U.S.-based media contacts to meet their public relations needs. The transaction will merge two of those databases and will thus be a "merger to duopoly" for those customers, leaving Cision as one of only two bidders they would seriously consider. Although there are nominally other media contact databases, they serve a very small segment of the market and lack sufficient coverage to satisfy many customers' public relations needs.

16. The elimination of competition from Agility would substantially reduce the two remaining bidders' incentives to offer lower prices, better services, or better products to win business from prospective customers. Consumers in the United States will likely experience higher prices, worse services, and inferior products as a result. Moreover, many customers for whom only two media contact database options will remain in the market after the transaction will be vulnerable to anticompetitive effects resulting from coordinated interaction. The two remaining companies could identify customers with limited options, and the resultant coordinated interaction could keep prices high, quality low, and innovation diminished for such customers.

17. In addition, Agility plays a unique competitive role in the marketplace. As an aggressive, frequently low-cost bidder for contracts with prospective media contact database customers, Agility pressures its two rivals to lower

their bid prices or risk losing substantial numbers of customers. No such constraint will remain after the transaction.

18. Cision currently has a dominant share of the media contact database market in the United States. The transaction would further enhance its market position and bargaining power with many customers. Accordingly, the transaction increases the likelihood that Cision could profitably exercise its market power in the future.

D. Entry

19. Due to the costs of developing and updating a media contact database with information for at least several hundred thousand media contacts, it is unlikely that entry or expansion into the media contact database market in the United States would be timely, likely, or sufficient to defeat the likely anticompetitive effects of the transaction.

20. Moreover, Cision and PR Newswire's positions in the marketplace have afforded them advantages unavailable to most new entrants. It would take an extensive period of time for a new entrant to build relationships with media outlets, to build its reputation among purchasers, and to grow its user base to be comparable to the Defendants' offerings.

V. VIOLATION ALLEGED

21. The United States hereby incorporates paragraphs 1 through 20.

22. The transaction would likely substantially lessen competition in the national market for media contact databases in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

23. Unless enjoined, the transaction would likely have the following anticompetitive effects, among others:

a. competition in the development, provision, and sale of media contact databases in the United States will likely be substantially lessened;

b. prices for media contact databases will likely increase; and

c. innovation and quality of media contact databases will likely decrease.

VI. REQUESTED RELIEF

24. The United States requests that this Court:

a. adjudge and decree that the transaction violates Section 7 of the Clayton Act, 15 U.S.C. 18;

b. permanently enjoin and restrain Defendants and all persons acting on their behalf from carrying out the transaction, or entering into any other agreement, understanding, or plan by which PR Newswire would be acquired by GTCR, Cision, or any affiliated entity;

c. award the United States its costs in this action; and

d. award the United States such other and further relief as may be just and proper.

Dated: June 10, 2016

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

/s/

Renata B. Hesse (D.C. Bar #466107)
Principal Deputy Assistant Attorney General

/s/

Patricia A. Brink
Director of Civil Enforcement

/s/

Scott A. Scheele (D.C. Bar #429061)
Chief, Telecommunications & Media Enforcement Section

/s/

Lawrence M. Frankel (D.C. Bar #441532)
Assistant Chief, Telecommunications & Media Enforcement Section

/s/

Jonathan M. Justl *
Brent E. Marshall
Matthew Jones (D.C. Bar #1006602)
Trial Attorneys

United States Department of Justice, Antitrust Division, Telecommunications & Media Enforcement Section, 450 Fifth Street NW., Suite 7000, Washington, DC 20530, Phone: 202-598-8164, Facsimile: 202-514-6381, E-mail: jonathan.justl@usdoj.gov

** Attorney of Record*

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *GTCR Fund X/A AIV LP, Cision US Inc., UBM PLC, PRN Delaware, Inc.,* and *PWW Acquisition LLC,* Defendants.

Case No.: 1:16–cv–01091
Judge: Thomas F. Hogan
Filed: 06/10/2016

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America ("United States"), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. 16, files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

Defendant GTCR Fund X/A AIV LP ("GTCR"), through its subsidiary Defendant PWW Acquisition LLC ("PWW"), and Defendant UBM plc ("UBM") entered into a Purchase and Sale Agreement, dated December 14, 2015, pursuant to which GTCR intends to acquire PR Newswire from UBM for $850 million. The United States filed a civil antitrust Complaint on June 10, 2016, seeking to enjoin the proposed acquisition. The Complaint alleges that the proposed acquisition likely would substantially lessen competition in the media contact database market in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. This loss of competition would likely result in customers paying higher prices for media contact databases and receiving lower quality services.

At the same time the Complaint was filed, the United States also filed a Hold Separate Stipulation and Order ("Hold Separate Order") and proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, Defendants are required to divest PR Newswire's business of providing the Agility and Agility Plus-branded public relations workflow software to customers located in the United States and the United Kingdom (the "Agility Business" or "Agility"). Under the terms of the Hold Separate Order, Defendants will take certain steps to ensure that the Agility Business is operated as a competitively independent, economically viable and ongoing business concern, that the Agility Business will remain independent and uninfluenced by the consummation of the acquisition, and that competition is maintained during the pendency of the ordered divestiture.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

GTCR is a private equity firm headquartered in Chicago, Illinois. GTCR owns Defendant Cision US Inc. ("Cision"), a leading public relations workflow software company. Cision's U.S. revenues were approximately $227 million in 2015.

UBM is a global events marketing and communications services business headquartered in St. Helier, Jersey. UBM owns the PR Newswire business, a leading provider of commercial newswire services. PR Newswire's 2015 U.S. revenues totaled approximately $209 million.

Cision is the dominant media contact database provider the United States through its flagship public relations workflow software suite.[1] Pursuant to the proposed transaction, GTCR will acquire UBM's PR Newswire business, which through Agility is the third-largest media contact database provider in the United States. The proposed acquisition would eliminate PR Newswire as an independent competitor and further enhance Cision's dominant position in the media contact database market.

The proposed acquisition, as initially agreed to by Defendants on December 14, 2015, would lessen competition substantially in the media contact database market in the United States. This acquisition is the subject of the Complaint and proposed Final Judgment filed today by the United States.

B. Competitive Effects of the Transaction in the Media Contact Database Market

i. The Relevant Market

Media contact databases enable users to look up the contact information for journalists and other "influencers" (*e.g.*, individuals that are influential on social media with respect to a given topic). Media contact databases typically also enable users to create customized lists of contacts they can use for targeting outreach to particular groups of journalists and influencers important to the users. Customers usually purchase annual subscriptions to media contact databases at prices individually negotiated with public relations workflow software companies.

Media contact databases are essential to the day-to-day operations of many large companies and public relations agencies. These organizations often need to maintain contact with a large number of journalists and influencers across a wide variety of media outlets. For such organizations, manually maintaining up-to-date lists of all relevant media contacts would be highly labor intensive and imprecise. Thus, for these organizations, manually maintaining media contacts is not a viable alternative to purchasing access to a media contact database. For these reasons, the Complaint alleges that media contact databases constitute a relevant product market and line of commerce under Section 7 of the Clayton Act, 15 U.S.C. 18.

The Complaint further alleges that the relevant geographic market is the United States. Customers in the United States generally require a database that provides comprehensive coverage of U.S.-based media contacts and value a domestic presence for sales, service, and support. According to the Complaint, a hypothetical monopolist of databases with U.S.-based media contacts and a U.S. presence would be able profitably to impose small but significant and non-transitory price increases on customers in the United States.

ii. The Proposed Acquisition Would Produce Anticompetitive Effects

According to the Complaint, customers in the United States have few meaningful choices for media contact databases. For many customers, only Cision, PR Newswire (through Agility), and a third firm provide media contact databases with sufficiently robust and up-to-date coverage of U.S.-based media contacts to meet their public relations needs. The proposed acquisition will be a "merger to duopoly" for these customers, leaving Cision—which is already the dominant provider in the market—as one of only two bidders they would seriously consider. Although there are other nominal providers of media contact databases, these firms serve a very small segment of the market and lack sufficient coverage to meet many customers' needs.

The elimination of competition from Agility would substantially reduce the two remaining bidders' incentives to offer lower prices, better services, or better products to win business from prospective customers. As alleged in the Complaint, prior to the proposed acquisition, Agility was an aggressive, frequently low-cost bidder for contracts with prospective media contact database customers, and the loss of competition from Agility will likely result in higher prices, worse services, and inferior products. In addition, the overall reduction in significant media contact database providers from three to two will leave many customers vulnerable to anticompetitive effects resulting from coordinated interaction. Cision and the other remaining firm could identify customers with limited options and, through coordinated interaction, raise those customers' prices and reduce the quality of services that they receive.

iii. Timely Entry Is Unlikely

Due to the costs of developing and updating a media contact database with information for at least several hundred thousand media contacts, the Complaint alleges that it is unlikely that entry or expansion into the media contact database market in the United States would be timely, likely, or sufficient to defeat the likely anticompetitive effects of the proposed acquisition.

Moreover, Cision and PR Newswire's positions in the marketplace have afforded them advantages unavailable to most new entrants. Over the years, Cision and PR Newswire have developed longstanding and collaborative relationships with media outlets that they can leverage to more efficiently update their media contact databases. They also have sizable user bases on which they can rely to identify and flag out-of-date contact information in their media contact databases. It would take an extensive period of time for a new entrant to build such relationships with media outlets, to build its reputation among purchasers, and to grow its user base to be comparable to the Defendants' offerings.

III. Explanation of the Proposed Final Judgment

A. Divestiture of the Agility Business

The divestiture requirement of the proposed Final Judgment will eliminate the anticompetitive effects of the transaction in the media contact database market in the United States by maintaining Agility as an independent, economically viable competitor. The proposed Final Judgment requires Defendants to divest Agility to Innodata Inc. ("Innodata") or another acquirer acceptable to the United States in its sole discretion. Pursuant to Paragraph IV.A, Defendants' divestiture of Agility must be completed within thirty (30) calendar days after (i) the signing of the Hold Separate Order, or (ii) consummation of the transaction, whichever is later. The United States may, in its sole discretion, agree to one or more extensions of this time period not to exceed 90 calendar days in total.

The "Divestiture Assets" are defined in Paragraph II.D of the proposed Final Judgment to cover all tangible assets comprising the Agility Business and all intangible assets used in the development, marketing, and provision of public relations workflow software by the Agility Business. Those assets include all of Agility's contracts with customers whose primary location is inside the United States or the United Kingdom, and all of Agility's intellectual property.[2]

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[1] "Public relations workflow software" refers to software that a developer has designed for the purpose of enabling users to identify media contacts, monitor media coverage, and/or analyze a media campaign's performance.

[2] The divestiture assets do not include, however, contracts with Agility customers whose primary location is outside the United States and the United Kingdom, or certain assets that PR Newswire used for non-Agility products, such as PR Newswire's Oracle Enterprise Single Sign-On user authentication system and leases for real property used by both the Agility Business and other PR

Pursuant to Paragraph IV.I of the proposed Final Judgment, the assets must be divested in such a way as to satisfy the United States in its sole discretion that the operations can and will be operated by the purchaser as a viable, ongoing business that can compete effectively in the relevant market. To this end, the Defendants must divest the entire Agility Business, including the media contact database as well as the other Agility software modules, as the media contact database is often sold with these other modules as part of an integrated suite. Defendants must take all reasonable steps necessary to accomplish the divestiture quickly and shall cooperate with prospective purchasers.

In addition, Paragraph IV.G of the proposed Final Judgment gives the purchaser of the Divestiture Assets the right to require Defendants to enter into a transition services agreement. This provision is designed to ensure that the purchaser can obtain any transitional services necessary to facilitate continuous operation of the divested assets until the purchaser can provide such capabilities independently.

In the event that Defendants do not accomplish the divestiture within the periods prescribed in the proposed Final Judgment, Section V of the proposed Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestiture. If a trustee is appointed, the proposed Final Judgment provides that Defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. At the end of six months after the trustee's appointment, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in the provision of media contact databases in the United States.

B. Notification of Future Transactions

Section XI of the proposed Final Judgment requires Cision, Defendant PRN Delaware, Inc., and GTCR, during any period in which GTCR or its related entities have a direct or indirect controlling ownership interest or certain management rights in Cision (collectively, the "Operating Defendants"), to provide advanced notification of certain transactions not otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the "HSR Act"). Specifically, the Operating Defendants shall not acquire any assets of or any interest in any provider of public relations workflow software during the term of the Final Judgment without providing notification to the United States at least thirty (30) calendar days in advance of the transaction. Section XI then provides for waiting periods and opportunities for the United States to obtain additional information similar to the provisions of the HSR Act before such transactions can be consummated. This provision is intended to inform the Antitrust Division of transactions that may raise competitive concerns similar to those remedied here and to provide the Antitrust Division with the opportunity, if needed, to seek effective relief.

C. Hold Separate Provisions

In connection with the proposed Final Judgment, Defendants have agreed to the terms of a Hold Separate Order, which is intended to ensure that the Divestiture Assets are operated as a competitively independent and economically viable ongoing business concern and that competition is maintained during the pendency of the ordered divestiture. Sections V(A)–(B) of the Hold Separate Order specify that the Divestiture Assets will be maintained as separate viable businesses and that Operating Defendants' employees will not gain access to the books and records or the competitively sensitive sales, marketing and pricing information of or be involved in decision-making related to the Divestiture Assets prior to divestiture. Sections V(C)–(E) further require that Defendants use all reasonable efforts to maintain and increase the sales and revenues of the Divestiture Assets and that they provide sufficient working capital and credit to maintain the condition and competitiveness of the Divestiture Assets.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's Internet Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

Scott A. Scheele
Chief, Telecommunications and Media Enforcement Section
Antitrust Division
United States Department of Justice

Newswire businesses. Thus, Defendants will be able to retain back-office systems or other assets and contracts used at the corporate level to support their remaining operations, and which an acquirer could supply for itself. In addition, inclusion of U.K. customers, along with U.S. customers, will give the divestiture buyer greater scale.

450 5th Street NW., Suite 7000
Washington, DC 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against consummation of the proposed transaction. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition in the media contact database market in the United States. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." *United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States* v. *SBC Commc'ns, Inc.*, 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States* v. *US Airways Group, Inc.*, 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the "court's inquiry is limited" in Tunney Act settlements); *United States* v. *InBev N.V./S.A.*, No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.").[3]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft*, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft*, 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest.*" More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[4] In determining whether a proposed settlement is in the public interest, a district court "must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations." *SBC Commc'ns*, 489 F. Supp. 2d at 17; *see also US Airways*, 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft*, 56 F.3d at 1461 (noting the need for courts to be "deferential to the government's predictions as to the effect of the proposed remedies"); *United States* v. *Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' " *United States* v. *Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.*, 406 F. Supp. at 716), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983); *see also U.S. Airways*, 38 F. Supp. 3d at 75 (noting that room must be made for the government to grant concessions in the negotiation process for settlements (citing *SBC Commc'ns*, 489 F. Supp. 2d at 15)); *United States* v. *Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622

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[3] The 2004 amendments substituted "shall" for "may" in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns*, 489 F. Supp. 2d at 11 (concluding that the 2004 amendments "effected minimal changes" to Tunney Act review).

[4] *Cf. BNS*, 858 F.2d at 464 (holding that the court's "ultimate authority under the [APPA] is limited to approving or disapproving the consent decree"); *United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass"). *See generally Microsoft*, 56 F.3d at 1461 (discussing whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' ").

(W.D. Ky. 1985) (approving the consent decree even though the court may have imposed a greater remedy). To meet this standard, the United States "need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms." *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft,* 56 F.3d at 1459; *see also US Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 ("the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged"). Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court confirmed in *SBC Communications,* courts "cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power." *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. 16(e)(2); *see also US Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: "[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's "scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings." *SBC Commc'ns,* 489 F. Supp. 2d at 11.[5] A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *US Airways,* 38 F. Supp. 3d at 76.

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: June 10, 2016

Respectfully submitted,

/s/ ______________________________

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* *Attorney of Record*

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *GTCR Fund X/A AIV LP, Cision US Inc., UBM PLC, PRN Delaware, Inc.,* and *PWW Acquisition LLC,* Defendants.

Case No.: 1:16–cv–01091
Judge: Thomas F. Hogan
Filed: 06/10/2016

[PROPOSED] FINAL JUDGMENT

WHEREAS, Plaintiff, United States of America, filed its Complaint on June ______, 2016, and the United States and Defendants GTCR Fund X/A AIV LP, Cision US Inc., UBM plc, PRN Delaware, Inc., and PWW Acquisition LLC (collectively, "Defendants"), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by the Defendants to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, Defendants have represented to the United States that the divestitures required below can and will be made and that Defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED AND DECREED:

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. "Acquirer" means Innodata or another entity to whom Defendants divest the Divestiture Assets.

B. "Agility Business" means the business of providing the Agility and Agility Plus-branded Public Relations Workflow Software to customers located in the United States and the United Kingdom. For the avoidance of doubt, the Agility Business does not include other products and services offered by PRN prior to the Transaction (including press release distribution, Vintage filings, MediaVantage, Profnet, or content production services).

C. "Cision" means defendant Cision US Inc., a Delaware corporation with its headquarters in Chicago, Illinois; its successors and assigns; its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures; and their directors, officers, managers, agents, and employees.

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[5] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the "Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone"); *United States* v. *Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, 1977 U.S. Dist. LEXIS 15858, at *22 (W.D. Mo. 1977) ("Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances."); S. Rep. No. 93–298, at 6 (1973) ("Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.").

D. "Divestiture Assets" means the Agility Business, including:

1. All tangible assets that comprise the Agility Business, including research and development activities; all fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property and all assets used exclusively in connection with the Agility Business; all licenses, permits, and authorizations issued by any governmental organization relating to the Agility Business; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings relating to the Agility Business, including supply agreements; all customer lists, contracts, accounts, and credit records; all repair and performance records; and all other records relating to the Agility Business; and

2. All intangible assets used in the development, marketing, and provision of Public Relations Workflow Software by the Agility Business, including, but not limited to all patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names, technical information, computer software and related documentation, know how, trade secrets, drawings, blueprints, designs, design protocols, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information Defendants provide to their own employees, customers, suppliers, agents or licensees, and all research data concerning historic and current research and development efforts relating to the Agility Business, including, but not limited to designs of developmental versions, and the results of successful and unsuccessful designs and developmental versions;

Provided, however, that the Divestiture Assets do not include contracts with Agility customers whose primary location is outside the United States and the United Kingdom; PR Newswire's Oracle Enterprise Single Sign-On user authentication system; PR Newswire's Sendmail Web Service for third-party email distribution; PR Newswire's Avalanche application platform; PR Newswire's IT infrastructure, intellectual property, software, content, and data that comprise PR Newswire's businesses other than the Agility Business; leases for real property used by both the Agility Business and other PR Newswire businesses; and senior-level PRN employees who oversee the Agility Business but who also have responsibilities for other PRN businesses.

E. "GTCR" means defendant GTCR Fund X/A AIV LP, a limited partnership with its headquarters in Chicago, Illinois; its successors and assigns; its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures; and their directors, officers, managers, agents, and employees.

F. "Innodata" means Innodata Inc., a Delaware corporation with its headquarters in Hackensack, New Jersey; its successors and assigns; its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures; and their directors, officers, managers, agents, and employees.

G. "Operating Defendants" means Cision and PRN. "Operating Defendants" also means GTCR during any period in which GTCR or its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees, either individually or in any combination, have a direct or indirect controlling ownership interest or any management role in Cision or have the right to appoint one or more members of Cision's board.

H. "PRN" means defendant PRN Delaware, Inc., a Delaware corporation with its headquarters in New York, New York; its successors and assigns; its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures; and their directors, officers, managers, agents, and employees.

I. "PR Newswire" means the PR Newswire business that PWW will acquire from UBM pursuant to a definitive agreement dated December 14, 2015, including PRN, its foreign PR Newswire affiliates, and certain other assets and liabilities specified in the definitive agreement.

J. "Public Relations Workflow Software" means software that a developer has designed for the purpose of enabling users to identify media contacts, monitor media coverage, and/or analyze a media campaign's performance.

K. "PWW" means defendant PWW Acquisition, LLC, a limited liability company with its headquarters in Chicago, Illinois.

L. "Transaction" means the transaction sought to be enjoined by the Complaint.

M. "UBM" means defendant UBM plc, a public limited company with its headquarters in St. Helier, Jersey; its successors and assigns; its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures; and their directors, officers, managers, agents, and employees.

III. Applicability

A. This Final Judgment applies to GTCR, Cision, UBM, PRN, and PWW, as defined above and as set forth herein, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Section IV and V of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirer of the assets divested pursuant to this Final Judgment.

IV. Divestitures

A. Defendants are ordered and directed, within thirty (30) calendar days after (i) the signing of the Hold Separate Stipulation and Order in this matter, or (ii) consummation of the Transaction, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed ninety (90) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible.

B. In the event Operating Defendants are attempting to divest the Divestiture Assets to an Acquirer other than Innodata, Operating Defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privileges or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirer and the United States information relating to the personnel involved in the production, operation, development and sale of the Divestiture Assets to enable the Acquirer to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer to employ any defendant employee whose primary responsibility is the production, operation, development or sale of the Divestiture Assets.

D. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities of the Divestiture Assets; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Operating Defendants shall warrant to the Acquirer that each asset will be operational on the date of sale.

F. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

G. At the option of the Acquirer and subject to the approval of the United States in its sole discretion, Defendants shall enter into contracts with the Acquirer for any transitional services that may be necessary to facilitate continuous operation of the Divestiture Assets until the Acquirer can provide such capabilities independently.

H. Operating Defendants shall warrant to the Acquirer that there are no material defects in the environmental, zoning or other permits pertaining to the operation of each asset, and that following the sale of the Divestiture Assets, Defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

I. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by Divestiture Trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer as part of a viable, ongoing Public Relations Workflow Software business. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment,

1. shall be made to an Acquirer that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the Public Relations Workflow Software business; and

2. shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer and Defendants give Defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. Appointment of Divestiture Trustee

A. If Operating Defendants have not divested the Divestiture Assets within the time period specified in Section IV.A., Operating Defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a Divestiture Trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a Divestiture Trustee becomes effective, only the Divestiture Trustee shall have the right to sell the Divestiture Assets. The Divestiture Trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V.D. of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of Operating Defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the Divestiture Trustee, reasonably necessary in the Divestiture Trustee's judgment to assist in the divestiture. Any such investment bankers, attorneys, or other agents shall serve on such terms and conditions as the United States approves including confidentiality requirements and conflict of interest certifications.

C. Defendants shall not object to a sale by the Divestiture Trustee on any ground other than the Divestiture Trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the Divestiture Trustee within ten (10) calendar days after the Divestiture Trustee has provided the notice required under Section VI.

D. The Divestiture Trustee shall serve at the cost and expense of Operating Defendants pursuant to a written agreement, on such terms and conditions as the United States approves including confidentiality requirements and conflict of interest certifications. The Divestiture Trustee shall account for all monies derived from the sale of the assets sold by the Divestiture Trustee and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for its services yet unpaid and those of any professionals and agents retained by the Divestiture Trustee, all remaining money shall be paid to Operating Defendants and the trust shall then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the Divestiture Trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the Divestiture Trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount. If the Divestiture Trustee and Operating Defendants are unable to reach agreement on the Divestiture Trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within 14 calendar days of appointment of the Divestiture Trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Divestiture Trustee shall, within three (3) business days of hiring any other professionals or agents, provide written notice of such hiring and the rate of compensation to Operating Defendants and the United States.

E. Defendants shall use their best efforts to assist the Divestiture Trustee in accomplishing the required divestiture. The Divestiture Trustee and any consultants, accountants, attorneys, and other agents retained by the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Defendants shall develop financial and other information relevant to such business as the Divestiture Trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the Divestiture Trustee's accomplishment of the divestiture.

F. After its appointment, the Divestiture Trustee shall file monthly reports with the United States and, as appropriate, the Court setting forth the

Divestiture Trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The Divestiture Trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the Divestiture Trustee has not accomplished the divestiture ordered under this Final Judgment within six months after its appointment, the Divestiture Trustee shall promptly file with the Court a report setting forth (1) the Divestiture Trustee's efforts to accomplish the required divestiture, (2) the reasons, in the Divestiture Trustee's judgment, why the required divestiture has not been accomplished, and (3) the Divestiture Trustee's recommendations. To the extent such report contains information that the Divestiture Trustee deems confidential, such report shall not be filed in the public docket of the Court. The Divestiture Trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by the United States.

H. If the United States determines that the Divestiture Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute Divestiture Trustee.

VI. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture agreement, Operating Defendants or the Divestiture Trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If the Divestiture Trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from Defendants, the proposed Acquirer, any other third party, or the Divestiture Trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the Divestiture Trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer, any third party, and the Divestiture Trustee, whichever is later, the United States shall provide written notice to Defendants and the Divestiture Trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Section V.C. of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by Defendants under Section V.C., a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

VIII. Hold Separate

Until the divestiture required by this Final Judgment has been accomplished, Defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or V, Defendants shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by Defendants, including limitation on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions Defendants have taken and all steps Defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in Defendants' earlier affidavits filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Hold Separate Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

1. access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and
2. to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this Section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(g) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(g) of the Federal Rules of Civil Procedure," then the United States shall give Defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. Notification

Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the "HSR Act"), the Operating Defendants, without providing advance notification to the United States Department of Justice, Antitrust Division, shall not directly or indirectly acquire any assets of or any interest, including any financial, security, loan, equity or management interest, in any provider of Public Relations Workflow Software during the term of this Final Judgment.

Such notification shall be provided to the Department of Justice in the same format as, and per the instructions relating to the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 5 through 9 of the instructions must be provided only about Public Relations Workflow Software. Notification shall be provided at least thirty (30) calendar days prior to acquiring any such interest, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the 30-day period after notification, representatives of the Department of Justice make a written request for additional information, the Operating Defendants shall not consummate the proposed transaction or agreement until thirty (30) calendar days after submitting all such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

XII. No Reacquisition

Operating Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

XIII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIV. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

XV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: ____________________

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

____

United States District Judge

[FR Doc. 2016–14497 Filed 6–17–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[OMB Number 1105–0100]

Agency Information Collection Activities; Proposed Collection Comments Requested; Extension Without Change, of a Previously Approved Collection; Claims of U.S. Nationals Referred to the Commission by the Department of State Pursuant to Section 4(a)(1)(C) of the International Claims Settlement Act of 1949

AGENCY: Foreign Claims Settlement Commission, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Foreign Claims Settlement Commission (Commission), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until August 19, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jeremy LaFrancois, Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Statement of Claim for filing of Claims Referred to the Commission under section 4(a)(1)(C) of the International Claims Settlement Act of 1949.

3. *The agency form number:* FCSC–1. Foreign Claims Settlement Commission, Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals.

Other: Corporations.

Abstract: Information will be used as a basis for the Commission to receive, examine, adjudicate and render final decisions with respect to claims for compensation of U.S. nationals, referred to the Commission by the Department of State pursuant to section 4(a)(1)(C) of the International Claims Settlement Act of 1949, as amended, 22 U.S.C. 1623(A)(1)(C).

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 500 individual respondents will complete the application, and that the amount of time estimated for an average respondent to reply is approximately two hours each.

6. *An estimate of the total public burden (in hours) associated with the collection:* 1,000 annual burden hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: June 15, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–14465 Filed 6–17–16; 8:45 am]

BILLING CODE 4410–BA–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of National Council on the Humanities

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the National Council on the Humanities will meet to advise the Chairman of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out his functions; to review applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 and make recommendations thereon to the Chairman; and to consider gifts offered to NEH and make recommendations thereon to the Chairman.

DATES: The meeting will be held on Thursday, July 14, 2016, from 10:30 a.m. until 12:30 p.m., and Friday, July 15, 2016, from 9:00 a.m. until adjourned.

ADDRESSES: The meeting will be held at Constitution Center, 400 7th Street SW., Washington, DC 20506. See **SUPPLEMENTARY INFORMATION** section for room numbers.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW., 4th Floor, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: The National Council on the Humanities is meeting pursuant to the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended). The Committee meetings of the National Council on the Humanities will be held on July 14, 2016, as follows: The policy discussion session (open to the public) will convene at 10:30 a.m. until approximately 11:30 a.m., followed by the discussion of specific grant applications and programs before the Council (closed to the public) from 11:30 a.m. until 12:30 p.m.

Challenge Grants: Room 4089.

Digital Humanities: Room 4085.

Education Programs: Room 2002.

Federal/State Partnership: Conference Room C.

Preservation and Access Programs: Room P003.

Public Programs: Room P002.

Research Programs: Room 4002.

In addition, the Jefferson Lecture Committee (closed to the public) will meet from 2:30 p.m. until 3:30 p.m. in Room P002.

The plenary session of the National Council on the Humanities will convene on July 15, 2016, at 9:00 a.m. in the Conference Center at Constitution Center. The agenda for the morning session (open to the public) will be as follows:

A. Minutes of the Previous Meeting
B. Reports
  1. Chairman's Remarks
  2. Deputy Chairman's Remarks
  3. Presentation by Guest Speaker Dr. David J. Skorton, Secretary of the Smithsonian Institution
  4. Congressional Affairs Report
  5. Reports on Policy and General Matters
  a. Challenge Grants
  b. Digital Humanities
  c. Education Programs
  d. Federal/State Partnership
  e. Preservation and Access Programs
  f. Public Programs
  g. Research Programs

The remainder of the plenary session will be for consideration of specific applications and therefore will be closed to the public.

As identified above, portions of the meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6) and 552b(c)(9)(b) of Title 5 U.S.C., as amended. The closed sessions will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Please note that individuals planning to attend the public sessions of the meeting are subject to security screening procedures. If you wish to attend any of the public sessions, please inform NEH as soon as possible by contacting Ms. Katherine Griffin at (202) 606–8322 or *kgriffin@neh.gov*. Please also provide advance notice of any special needs or accommodations, including for a sign language interpreter.

Dated: June 15, 2016.

Elizabeth Voyatzis,

Committee Management Officer.

[FR Doc. 2016–14468 Filed 6–17–16; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

President's Committee on the National Medal of Science; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name and Committee Code: President's Committee on the National Medal of Science (1182).

Date and Time: Friday, July 22, 2016, 9:00 a.m.–2:00 p.m..

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Sherrie Green, Program Manager, Room 935, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: 703–292–4757.

Purpose of Meeting: To provide advice and recommendations to the President in the selection of the 2015 National Medal of Science recipients.

Agenda: To review and evaluate nominations as part of the selection process for awards.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are exempt under 5 U.S.C. 552b(c) and (6) of the Government in the Sunshine Act.

Dated: June 15, 2016.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2016–14496 Filed 6–17–16; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit modification request received and permit issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated and permits issued under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of a requested permit modification and permit issued.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, Division of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Or by email: *ACApermits@nsf.gov*.

SUPPLEMENTARY INFORMATION: The Foundation issued a permit (ACA 2014–003) to Jennifer Burns on July 18, 2012. The issued permit allows the applicant to study the interaction of Weddell seal condition and the timing of molting and reproduction. This involves capture, restrain, and sedation of adult female seals, VHF and TDR/GPS tag deployments, and visual surveys. Pups of these females are flipper-tagged. These permitted activities may take place in ASPAs 121, 155, and 157 amongst other areas in McMurdo Sound. Previous modifications, dated December 2, 2014 and November 12, 2015, covered changes to handling, sampling, marking, and tagging methods as allowed under NMFS MMPA permit #17411.

Now the applicant proposes a permit modification to extend the expiration date of her ACA permit that currently expires on February 28, 2017. This modification will extend the time allowed to conduct the permitted activities until March 31, 2017. The total number of takes and harassments will not exceed those already allowed under both the ACA and NMFS MMPA permits. The extension is primarily to allow for additional surveys. The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

DATES: November 1, 2013 to March 31, 2017.

The permit modification was issued on June 14, 2016.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2016–14419 Filed 6–17–16; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on July 6, 2016, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, July 6, 2016—12:00 p.m. Until 1:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Quynh Nguyen (Telephone 301–415–5844 or Email: *Quynh.Nguyen@nrc.gov*) five days prior to the meeting, if possible, so that arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 21, 2015 (80 FR 63846).

Information regarding changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the DFO if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (240–888–9835) to be escorted to the meeting room.

Dated: June 9, 2016.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2016–14485 Filed 6–17–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0001]

Sunshine Act Meeting Notice

DATE: June, 20, 27, July 4, 11, 18, 25, 2016.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

Week of June 20, 2016

Monday, June 20, 2016

9:00 a.m.—Meeting with Department of Energy Office of Nuclear Energy (Public Meeting) (Contact: Albert Wong: 301–415–3081)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

Thursday, June 23, 2016

8:55 a.m.—Affirmation Session (Public Meeting) (Tentative)

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station), Appeal of LBP–15–18 and Petition for Reconsideration of SRM–SECY–14–0125 (Tentative)

9:00 a.m. Discussion of Security Issues (Closed Ex. 3)

Week of June 27, 2016—Tentative

Tuesday, June 28, 2016

9:30 a.m.—Briefing on Human Capital and Equal Opportunity Employment (Public Meeting) (Contact: Kristin Davis: 301–287–0707)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

Week of July 4, 2016—Tentative

Thursday, July 7, 2016

9:30 a.m.—Strategic Programmatic Overview of the Reactors Operating Business Line (Public Meeting) (Contact: Trent Wertz: 301–415–1568)

Week of July 11, 2016—Tentative

There are no meetings scheduled for the week of July 11, 2016.

Week of July 18, 2016—Tentative

Thursday, July 21, 2016

9:30 a.m.—Briefing on Project Aim (Public Meeting) (Contact: Janelle Jessie: 301–415–6775)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

Week of July 25, 2016—Tentative

Thursday, July 28, 2016

9:00 a.m.—Hearing on Combined Licenses for Levy Nuclear Plant, Units 1 and 2: Section 189a. of the Atomic Energy Act Proceeding (Public Meeting) (Contact: Donald Habib: 301–415–1035)

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov*.

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html*.

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov*.

Dated: June 16, 2016.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2016–14697 Filed 6–16–16; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2016–202; CP2016–203; CP2016–204; CP2016–205; CP2016–206; CP2016–208; CP2016–209]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 22, 2016 (Comment due date applies to all Docket Nos. listed above).

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service has filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The requests(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2016–202; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 14, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Katalin K. Clendenin; *Comments Due:* June 22, 2016.

2. *Docket No(s).:* CP2016–203; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 14, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Curtis E. Kidd; *Comments Due:* June 22, 2016.

3. *Docket No(s).:* CP2016–204; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 14, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Curtis E. Kidd; *Comments Due:* June 22, 2016.

4. *Docket No(s).:* CP2016–205; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 14, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Kenneth R. Moeller; *Comments Due:* June 22, 2016.

5. *Docket No(s).:* CP2016–206; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 14, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Kenneth R. Moeller; *Comments Due:* June 22, 2016.

6. *Docket No(s).:* CP2016–208; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 14, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Lyudmila Y. Bzhilyanskaya; *Comments Due:* June 22, 2016.

7. *Docket No(s).:* CP2016–209; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 14, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Lyudmila Y. Bzhilyanskaya; *Comments Due:* June 22, 2016.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–14495 Filed 6–17–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2016–199; CP2016–200; CP2016–201]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 21, 2016 (Comment due date applies to all Docket Nos. listed above).

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

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I. Introduction

The Commission gives notice that the Postal Service has filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The requests(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2016–199; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 13, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30–.35; *Public Representative:* Cassie D'Souza; *Comments Due:* June 21, 2016.

2. *Docket No(s).:* CP2016–200; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 13, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30–.35; *Public Representative:* Curtis E. Kidd; *Comments Due:* June 21, 2016.

3. *Docket No(s).:* CP2016–201; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 13, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30–.35; *Public Representative:* Curtis E. Kidd; *Comments Due:* June 21, 2016.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–14457 Filed 6–17–16; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78063; File No. SR–NASDAQ–2016–056]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Listing and Trading of the Shares of the PowerShares Variable Rate Investment Grade Portfolio, a Series of the PowerShares Actively Managed Exchange-Traded Fund Trust

June 14, 2016.

On April 13, 2016, the NASDAQ Stock Market LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the PowerShares Variable Rate Investment Grade Portfolio, a series of the PowerShares Actively Managed Exchange-Traded Fund Trust. The proposed rule change was published for comment in the **Federal Register** on May 2, 2016.[3] On May 5, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is June 16, 2016. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates July 29, 2016, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NASDAQ–2016–056), as modified by Amendment No. 1 thereto.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14447 Filed 6–17–16; 8:45 am]

BILLING CODE 8011–01–P

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77715 (April 26, 2016), 81 FR 26285.

[4] In Amendment No. 1, the Exchange amended certain representations regarding the holdings of the Fund, made numerous technical and clarifying changes, and added where closing price information for certain assets held by the Fund could be found. Amendment No. 1 is available at: *http://www.sec.gov/comments/sr-nasdaq-2016-056/nasdaq2016056-1.pdf.*

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78061; File No. SR–BatsBZX–2016–22]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees as They Apply to the Equity Options Platform

June 14, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2016, Bats BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its fee schedule applicable to the Exchange's equity options platform ("BZX Options") to: (1) Modify the standard fee for Customer[6] orders that remove liquidity in Penny Pilot Securities[7]; (2) modify and delete several tiers pursuant to the Exchange's tiered pricing structure; and (3) modify the Exchange's routing fees, as further described below.

Customer Orders That Remove Liquidity in Penny Pilot Securities

The Exchange is proposing to modify the standard fee for Customer orders that remove liquidity in Penny Pilot Securities. Such orders, when executed on the Exchange, currently yield fee code PC and are assessed a standard fee of $0.48 per contract. The Exchange is proposing to increase the standard fee for Customer orders that remove liquidity in Penny Pilot Securities from $0.48 to $0.49 per contract. In addition to the modification to the Fee Codes and Associated Fees table, the Exchange proposes to update the Standard Rates table of the fee schedule to reflect this change.

Tiered Pricing Changes

The Exchange currently offers multiple tiers that provide either a reduced fee or an enhanced rebate for Members that reach certain volume thresholds. The Exchange proposes various modifications to its tiered pricing structure, as set forth below.

Customer Penny Pilot Add Tiers

Customer orders that add liquidity on the Exchange in Penny Pilot Securities yield fee code PY and receive a standard rebate of $0.25 per contract. In addition, footnote 1 of the fee schedule currently sets forth eight different types of Customer Penny Pilot Add Tiers, each providing an enhanced rebate to a Member's Customer orders that yield fee code PY upon satisfying monthly volume criteria required by the respective tier.

The Exchange proposes to amend Customer Add Volume Tier 5 to increase the rebate provided and to reduce the qualification criteria for the tier. Specifically, the Exchange proposes to modify Customer Add Volume Tier 5 to provide a rebate of $0.53 per contract instead of $0.52 per contract for all executions of orders that yield PY for qualifying Members. In order to qualify for Customer Add Volume Tier 5, the Exchange currently requires a Member to: (1) Have an ADAV[8] in Customer orders equal to or greater than 0.80% of average TCV;[9] and (2) have an ADAV in Market Maker[10] orders equal to or greater than 0.40% of average TCV. In addition to the increase rebate for Customer Add Volume Tier 5, the Exchange proposes to reduce the second prong of the qualifying criteria to require a Member to have an ADAV in Market Maker orders equal to or greater than 0.30% of average TCV.

Pursuant to Customer Add Volume Tier 6, the Exchange currently provides an enhanced rebate of $0.53 per contract for executions of orders yielding fee code PY where a Member has an ADAV in Customer orders equal to or greater than 1.60% of average TCV. The Exchange proposes to reduce the qualifying criteria for Customer Add Volume Tier 6 and to provide a rebate of $0.53 for any Member with an ADAV in Customer orders equal to or greater than 1.30% of average TCV.

The Exchange notes that no changes are required to the Standard Rates table of the fee schedule in connection with the changes to footnote 1.

Firm, Broker Dealer and Joint Back Office Penny Pilot Add Volume Tiers

Firm,[11] Broker Dealer,[12] and Joint Back Office[13] orders that add liquidity on the Exchange in Penny Pilot Securities yield fee code PF and receive a standard rebate of $0.36 per contract. In addition, footnote 2 of the fee schedule currently sets forth four different types of Firm, Broker Dealer and Joint Back Office Penny Pilot Add Volume Tiers, each providing an enhanced rebate to a Member's orders that yield fee code PF upon satisfying monthly volume criteria required by the respective tier.

The Exchange proposes to eliminate Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Tiers 1 and 2 under footnote 2, which currently provide Members with rebate of $0.40 per contract and $0.42 per contract, respectively, for Firm, Broker Dealer, and Joint Back Office orders that add liquidity in Penny Pilot Securities where the Member meets applicable criteria. In connection with this change, the Exchange proposes to rename Tier 3 under footnote 2 as Tier 1.

In addition to the modifications to footnote 2, the Exchange proposes to update the Standard Rates table of the fee schedule to reflect these changes.

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[5] The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." *See* Exchange Rule 1.5(n).

[6] The term "Customer" applies to any transaction identified by a Member for clearing in the Customer range at the Options Clearing Corporation ("OCC"), excluding any transaction for a Broker Dealer or a "Professional" as defined in Exchange Rule 16.1.

[7] The term "Penny Pilot Security" applies to those issues that are quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01.

[8] "ADAV" means average daily volume calculated as the number of contracts added per day.

[9] "TCV" means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply.

[10] The term "Market Maker" applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37).

[11] The term "Firm" applies to any transaction identified by a Member for clearing in the Firm range at the OCC, excluding any Joint Back Office transaction.

[12] The term "Broker Dealer" applies to any order for the account of a broker dealer, including a foreign broker dealer, that clears in the Customer range at the OCC.

[13] The term "Joint Back Office" applies to any transaction identified by a Member for clearing in the Firm range at the OCC that is identified with an origin code as Joint Back Office. A Joint Back Office participant is a Member that maintains a Joint Back Office arrangement with a clearing broker-dealer.

Non-Customer Penny Pilot Take Volume Tiers

Non-Customer[14] orders that remove liquidity from the Exchange in Penny Pilot Securities yield fee code PP and are charged a standard fee of $0.50 per contract. In addition, footnote 3 of the fee schedule currently sets forth four different types of Non-Customer Penny Pilot Take Volume Tiers, each providing a reduced fee to a Member's Non-Customer orders that yield fee code PP upon satisfying monthly volume criteria required by the respective tier.

The Exchange proposes to eliminate Non-Customer Take Volume Tier 1 under footnote 3, which currently results in a fee to Members of $0.49 per contract for Non-Customer orders that remove liquidity in Penny Pilot Securities where the Member meets applicable criteria. In connection with this change, the Exchange proposes to rename Tier 2 through 4 under footnote 3 as Tiers 1 through 3.

The Exchange also proposes to amend current Non-Customer Take Volume Tier 2 (to be re-numbered as Non-Customer Take Volume Tier 1) to reduce the fee charged to qualifying Members under such tier as well as to reduce the qualification criteria for the tier. Specifically, the Exchange proposes to modify current Non-Customer Take Volume Tier 2 to charge a fee of $0.44 per contract instead of $0.47 per contract for all executions of orders that yield fee code PP for qualifying Members. In order to qualify for current Non-Customer Take Volume Tier 2, the Exchange currently requires a Member to: (1) Have an ADAV in Customer orders equal to or greater than 0.80% of average TCV; and (2) have an ADAV in Market Maker orders equal to or greater than 0.40% of average TCV. In addition to the reduced fee for current Non-Customer Take Volume Tier 2, the Exchange proposes to reduce the second prong of the qualifying criteria to require a Member to have an ADAV in Market Maker orders equal to or greater than 0.30% of average TCV.

Pursuant to current Non-Customer Take Volume Tier 4 (to be re-numbered as Non-Customer Take Volume Tier 3), the Exchange currently charges a reduced fee of $0.46 per contract for executions of orders yielding fee code PP where a Member has an ADAV in Customer orders equal to or greater than 1.60% of average TCV. The Exchange proposes to further reduce both the fee and qualifying criteria for current Non-Customer Take Volume Tier 4 to instead charge a fee of $0.44 per contract for any Member with an ADAV in Customer orders equal to or greater than 1.30% of average TCV.

In addition to the modifications to footnote 3, the Exchange proposes to update the Standard Rates table of the fee schedule to reflect these changes.

Non-Customer Non-Penny Pilot Take Volume Tier

Non-Customer orders that remove liquidity from the Exchange in Non-Penny Pilot Securities[15] yield fee code NP and are charged a standard fee of $0.99 per contract. In addition, footnote 13 of the fee schedule currently sets forth a Non-Customer Non-Penny Pilot Take Volume Tier that provides a reduced fee of $0.95 per contract to a Member's Non-Customer orders that yield fee code NP upon satisfying monthly volume criteria required by the tier. The Exchange proposes to eliminate the Non-Customer Non-Penny Pilot Take Volume Tier. Thus, the Exchange proposes to remove footnote 13 in its entirety as well as the reference to footnote 13 appended to fee code NP.

In addition to the elimination of footnote 13, the Exchange proposes to update the Standard Rates table of the fee schedule to reflect this change.

Routing Fees

The Exchange proposes to modify the fees charged for orders routed away from the Exchange and executed at various away options exchanges.[16] The Exchange currently charges flat rate routing fees for executions at away options exchanges that have been placed into groups based on the approximate cost of routing to such venues. The grouping of away options exchanges is based on the cost of transaction fees assessed by each venue as well as costs to the Exchange for routing (*i.e.*, clearing fees, connectivity and other infrastructure costs, membership fees, etc.) (collectively, "Routing Costs"). To address different fees at various other options exchanges, the Exchange proposes to increase fees applicable to routing to certain away options exchanges in Non-Penny Securities, as further described below.

With respect to Non-Customer orders in Non-Penny Pilot Securities, the Exchange appends fee code RO to all such orders routed to and executed at other options exchanges. Pursuant to fee code RO, the Exchange charges a fee of $1.20 per contract. The Exchange proposes to increase this fee from $1.20 per contract to $1.25 per contract to account for additional Routing Costs incurred by the Exchange.

With respect to Customer orders in Non-Penny Pilot Securities the Exchange applies one of two fee codes: (1) Fee code RP, which results in a fee of $0.25 per contract and applies to all Customer orders (including orders in Penny Pilot Securities) routed to and executed at AMEX, BOX, BX Options, CBOE, EDGX Options, ISE Mercury, MIAX or PHLX; or (2) fee code RR, which results in a fee of $0.90 per contract and applies to all Customer orders in Non-Penny Pilot Securities routed to and executed at ARCA, C2, ISE, ISE Gemini or NOM. The Exchange proposes to increase the fee under fee code RR from $0.90 per contract to $1.00 per contract to account for additional Routing Costs incurred by the Exchange. The Exchange does not propose any change to fee code RP.

As set forth above, the Exchange's proposed approach to routing fees is to set forth in a simple manner certain flat fees that approximate the cost of routing to other options exchanges. The Exchange then monitors the fees charged as compared to the costs of its routing services, as well as monitoring for specific fee changes by other options exchanges, and intends to adjust its flat routing fees and/or groupings to ensure that the Exchange's fees do indeed result in a rough approximation of overall Routing Costs, and are not significantly higher or lower in any area. The increases are proposed primarily in order to account for increased Routing Costs incurred by the Exchange.

Implementation Date

The Exchange proposes to implement these amendments to its fee schedule immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6 of the Act.[17] Specifically, the Exchange believes that the proposed rule change is consistent with section 6(b)(4) of the Act,[18] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels to be excessive.

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[14] The term "Non-Customer" applies to any transaction that is not a Customer order.

[15] The term "Non-Penny Pilot Security" applies to those issues that are not Penny Pilot Securities quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01.

[16] Other options exchanges to which the Exchange routes include: Bats EDGX Exchange, Inc. ("EDGX Options"), BOX Options Exchange LLC ("BOX"), Chicago Board Options Exchange, Inc. ("CBOE"), C2 Options Exchange, Inc. ("C2"), International Securities Exchange, Inc. ("ISE"), ISE Gemini, LLC ("ISE Gemini"), ISE Mercury, LLC ("ISE Mercury"), Miami International Securities Exchange, LLC ("MIAX"), Nasdaq Options Market LLC ("NOM"), Nasdaq OMX BX LLC ("BX Options"), Nasdaq OMX PHLX LLC ("PHLX"), NYSE Arca, Inc. ("ARCA"), and NYSE MKT LLC ("AMEX").

[17] 15 U.S.C. 78f.

The Exchange believes that its proposal to change the standard fee charged for Customer orders that remove liquidity in Penny Pilot Securities under fee code PC from $0.48 to $0.49 per contract is reasonable, fair and equitable and non-discriminatory, because the change will apply equally to all participants, and because, while the change marks an increase in fees for Customer orders in Penny Pilot Securities, such proposed fees remain consistent with pricing previously offered by the Exchange as well as competitors of the Exchange and does not represent a significant departure from the Exchange's general pricing structure and will allow the Exchange to earn additional revenue that can be used to offset the addition of new pricing incentives, including those introduced as part of this proposal.

Further, the Exchange believes that the proposed modifications to the tiered pricing structure are reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive. The proposed fee structure remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange.

Volume-based rebates such as those currently maintained on the Exchange have been widely adopted by options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value of an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes.

The proposed modifications to the criteria required to qualify for current Customer Add Volume Tiers 5 and 6 and Non-Customer Take Volume Tiers 2 and 4 are intended to incentivize additional Members to send Customer orders and/or Market Maker orders to the Exchange in an effort to qualify for the enhanced rebate or lower fee made available by the tiers. Similarly, the increase to the rebate provided for Members that qualify for Customer Add Volume Tier 5 and the reduction of the fees charged to Members that qualify for Non-Customer Take Volume Tiers 2 and 4 are intended to incentivize additional Members to send Customer orders and/or Market Maker orders to the Exchange. In order to offset such changes, the Exchange is also eliminating certain other pricing incentives currently offered by the Exchange. Particularly, the Exchange has proposed to eliminate Non-Customer Take Volume Tier 1, Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Tiers 1 and 2, and the Non-Customer Non-Penny Pilot Take Volume Tier. Although these changes will result in fewer ways to qualify for enhanced rebates or reduced fees, the Exchange believes such changes are offset by the other changes described above, particularly the reduction of certain criteria needed to qualify for remaining tiers.

The proposed changes are broadly intended to incentivize participants to increase their participation on the Exchange, which will increase the liquidity and market quality on the Exchange. Thus, the Exchange believes that the proposed tiers, as proposed to be amended are reasonable, fair and equitable, and non-discriminatory, for the reasons set forth above with respect to volume-based pricing generally and because such changes will incentivize participants to further contribute to market quality. The Exchange also believes that the tiered pricing structure remains consistent with pricing previously offered by the Exchange as well as other options exchanges and does not represent a significant departure from such pricing structures.

With respect to the proposed increases under the Exchange's routing structure, the Exchange again notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues or providers of routing services if they deem fee levels to be excessive. As explained above, the Exchange seeks to approximate the cost of routing to other options exchanges, including other applicable costs to the Exchange for routing, in order to provide a simplified and easy to understand pricing model. The Exchange believes that a pricing model based on approximate Routing Costs is a reasonable, fair and equitable approach to pricing. Specifically, the Exchange believes that its proposal to modify fees is fair, equitable and reasonable because the fees are generally an approximation of the cost to the Exchange for routing orders to such exchanges. The Exchange believes that its flat fee structure for orders routed to various venues is a fair and equitable approach to pricing, as it will provide certainty with respect to execution fees at groups of away options exchanges. In order to achieve its flat fee structure, taking all costs to the Exchange into account, the Exchange will in some instances charge a higher premium to route to certain options exchanges than to others. As a general matter, the Exchange believes that the proposed fees will allow it to recoup and cover its costs of providing routing services to such exchanges and to make some additional profit in exchange for the services it provides. The Exchange also believes that the proposed increase to the fee structure for orders routed to and executed at these away options exchanges is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members. Finally, the Exchange notes that it intends to consistently evaluate its routing fees, including profit and loss attributable to routing, as applicable, in connection with the operation of a flat fee routing service, and would consider future adjustments to the proposed pricing structure to the extent it was recouping a significant profit or loss from routing to away options exchanges.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendments to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposal is a competitive proposal that is seeking to sustain and further the growth of the Exchange by updating a standard fee as well as the Exchange's tiered pricing structure and updating the Exchange's fees for routing orders to away options exchanges based on Routing Costs.

With respect to the increase to the standard Customer fee to remove liquidity in Penny Pilot Securities, the Exchange does not believe that the increase represents a significant departure from pricing previously offered by the Exchange nor does the Exchange believe that the increase results in any burden on competition.

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[18] 15 U.S.C. 78f(b)(4).

Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

With respect to the proposed tiered pricing changes, the Exchange has structured the proposed fees and rebates to attract additional volume to the Exchange. Particularly, the Exchange is proposing various changes to tiers that will result in increased rebates provided or reduced fees charged or that will make certain tiers more easily attainable for more Members. In order to offset such changes, the Exchange is also eliminating certain other pricing incentives currently offered by the Exchange. Accordingly, the Exchange does not believe that the proposed changes to the Exchange's tiered pricing structure burdens competition, but instead, enhances competition as such changes are all intended to increase the competitiveness of the Exchange. Also, the Exchange believes that the price changes contribute to, rather than burden competition, as such changes are broadly intended to incentivize participants to increase their participation on the Exchange, which will increase the liquidity and market quality on the Exchange, which will then further enhance the Exchange's ability to compete with other exchanges.

With respect to the proposed changes to the routing fee structure, the Exchange believes that the proposed fees are competitive in that they will continue to provide a simple approach to routing pricing that some Members may favor. Additionally, Members may opt to disfavor the Exchange's pricing, including pricing for transactions on the Exchange as well as routing fees, if they believe that alternatives offer them better value. In particular, with respect to routing services, such services are available to Members from other broker-dealers as well as other options exchanges. The Exchange also notes that Members may choose to mark their orders as ineligible for routing to avoid incurring routing fees.[19]

Based on the foregoing, the Exchange does not believe that any of the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[20] and paragraph (f) of Rule 19b–4 thereunder.[21] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsBZX–2016–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2016–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBZX–2016–22 and should be submitted on or before July 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14445 Filed 6–17–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78065; File No. SR–NYSEArca–2016–85]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services

June 14, 2016.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 1, 2016, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[19] *See* Exchange Rule 21.1(d)(7) (describing "Book Only" orders) and Exchange Rule 21.9(a)(1) (describing the Exchange's routing process, which requires orders to be designated as available for routing).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (the "Fee Schedule") to provide a second way to qualify for Tier 2 fees and credits for orders executed on the Exchange. The Exchange proposes to implement the fee change effective June 1, 2016. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to provide a second way to qualify for Tier 2 fees and credits for orders executed on the Exchange.[4] The Exchange proposes to implement the fee change effective June 1, 2016.

Currently, ETP Holders and Market Makers qualify for Tier 2 fees and credits by providing liquidity an average daily share volume per month of 0.30% or more, but less than 0.70% of United States consolidated average daily volume ("US CADV").[5]

The Exchange proposes to permit ETP Holders and Market Makers to alternatively qualify for Tier 2 fees and credits if they provide liquidity of 0.10% or more of the US CADV per month, and are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted Customer and Professional Customer executions in all issues on NYSE Arca Options (excluding mini options) of at least 1.50% of total Customer equity and ETF option ADV as reported by The Options Clearing Corporation ("OCC").[6] The Exchange is not proposing to change the level of fees and credits applicable to Tier 2. The purpose of the proposed rule change is to adopt an alternative method for ETP Holders and Market Makers to qualify for Tier 2 fees and credits. The Exchange believes that the proposal would create an added incentive for ETP Holders and Market Makers to bring additional order flow to a public market while also providing an alternative method for ETP Holders and Market Makers to qualify for Tier 2 fees and credits. The Exchange notes that Bats BZX Exchange ("BZX") also provides pricing that combines a participant's equities and options trading on that exchange.[7]

The proposed changes are not otherwise intended to address any other problem, and the Exchange is not aware of any significant problem that the affected market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[8] in general, and furthers the objectives of sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposal to amend Tier 2 is reasonable because it provides ETP Holders affiliated with an NYSE Arca Options OTP Holder or OTP Firm with an additional way to qualify for Tier 2 fees and credits. The Exchange believes that the proposal to utilize a lower requirement of an ETP Holder or Market Maker providing liquidity of 0.10% or more of US CADV, rather than 0.30% or more of US CADV, is reasonable because to qualify for the proposed alternative an ETP Holder or Market Maker would also be required to be affiliated with an OTP Holder or OTP Firm and in addition, the ETP Holder's and Market Maker's affiliated OTP Holder or OTP Firm would be required to provide an ADV of electronic posted Customer and Professional Customer executions in all issues on NYSE Arca Options (excluding mini options) of at least 1.50% of total Customer equity and ETF option ADV as reported by OCC.

The Exchange believes that expanding the basis for Tier 2 to include Customer equity and ETF options ADV will better reflect the correlation between options trading and the underlying securities, which trade at the Exchange, including ETFs. In this respect, the Exchange notes that Equity and ETF Customer volume is a widely followed benchmark of industry volume and is indicative of industry market share. The Exchange believes that the proposal is equitable and not unfairly discriminatory because all ETP Holders and Market Makers would be subject to the same fee structure and be offered the same alternative to qualifying for Tier 2 fees and credits. Moreover, Tier 2 fees and credits would be available for all ETP Holders and Market Makers to satisfy, including those that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm. ETP Holders and Market Makers that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm would continue to be eligible for Tier 2 fees and credits subject to their meeting the current requirements.

Further, the Exchange believes that the proposal is reasonable and would create an added incentive for ETP Holders and Market Makers to execute additional orders on the Exchange. The Exchange believes that the proposed change is equitable and not unfairly discriminatory because providing incentives for orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

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[4] The Tier 2 fees and credits are available for round lots and odd lots with a per share price [sic] $1.00 or above.

[5] The Exchange proposes to use the same definition [sic] US CADV for purposes of the proposed alternative to qualifying for Tier 2. Specifically, US CADV would mean the United States Consolidated Average Daily Volume for transactions reported to the Consolidated Tape, excluding odd lots through January 31, 2014 (except for purposes of Lead Market Maker pricing), and excludes volume on days when the market closes early and on the date of the annual reconstitution of the Russell Investments Indexes. Transactions that are not reported to the Consolidated Tape are not included in US CADV. *See* Fee Schedule, footnote 3.

[6] The proposed change is similar to pricing tiers currently in place on the Exchange. The Exchange's Cross Asset Tier 1 and Cross Asset Tier 2 already provide for fees and credits based on liquidity provided by an affiliated OTP Holder or OTP Firm. *See* Fee Schedule.

[7] *See* BZX Fee Schedule at *http://www.bats.com/us/equities/membership/fee_schedule/bzx/.*

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

Volume-based rebates and fees such as the ones currently in place on the Exchange, and as proposed herein, have been widely adopted in the cash equities markets and are equitable because they are open to all ETP Holders and Market Makers on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. Further, the Exchange believes that the proposed amendment to Tier 2 will provide such enhancements in market quality on both the Exchange's equity market and options market by incentivizing increased participation on both platforms.

The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[10] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposal to add an additional way to qualify for Tier 2 would encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders and Market Makers. The Exchange believes that this could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of ETP Holders or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A)[11] of the Act and subparagraph (f)(2) of Rule 19b–4[12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2016–85 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2016–85. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2016–85, and should be submitted on or before July 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14449 Filed 6–17–16; 8:45 am]

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[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78060; File No. SR–Phlx–2016–47]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted

June 14, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on June 10, 2016, NASDAQ PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Phlx Rule 1034 (Minimum Increments)[3] to extend through December 31, 2016 or the date of permanent approval, if earlier, the Penny Pilot Program in options classes in certain issues ("Penny Pilot" or "Pilot"), and to change the date when delisted classes may be replaced in the Penny Pilot.[4]

The text of the amended Exchange rule is set forth immediately below.

Proposed new language is *in italics* and proposed deleted language is [bracketed].

NASDAQ PHLX Rules

Options Rules

* * * * *

Rule 1034. Minimum Increments

(a) Except as provided in sub-paragraphs (i)(B) and (iii) below, all options on stocks, index options, and Exchange Traded Fund Shares quoting in decimals at $3.00 or higher shall have a minimum increment of $.10, and all options on stocks and index options quoting in decimals under $3.00 shall have a minimum increment of $.05.

(i)(A) No Change.

(B) For a pilot period scheduled to expire [June 30] *December 31*, 2016 or the date of permanent approval, if earlier (the "pilot"), certain options shall be quoted and traded on the Exchange in minimum increments of $0.01 for all series in such options with a price of less than $3.00, and in minimum increments of $0.05 for all series in such options with a price of $3.00 or higher, except that options overlying the PowerShares QQQ Trust ("QQQQ")®, SPDR S&P 500 Exchange Traded Funds ("SPY"), and iShares Russell 2000 Index Funds ("IWM") shall be quoted and traded in minimum increments of $0.01 for all series regardless of the price. A list of such options shall be communicated to membership via an Options Trader Alert ("OTA") posted on the Exchange's Web site.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity in the previous six months. The replacement issues may be added to the pilot on the second trading day following July 1, [2015] *2016* [and January 1, 2016].

(C) No Change.

(ii)–(v) No Change.

* * * * *

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Phlx Rule 1034 to extend the Penny Pilot through December 31, 2016 or the date of permanent approval, if earlier,[5] and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock ("QQQQ"), the SPDR S&P 500 Exchange Traded Fund ("SPY") and the iShares Russell 2000 Index Fund ("IWM"), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on June 30, 2016.

The Exchange proposes to extend the time period of the Penny Pilot through December 31, 2016 or the date of permanent approval, if earlier, and to provide a revised date for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2016. The replacement issues will be selected based on trading activity in the previous six months.[6]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References herein to rules refer to rules of Phlx, unless otherwise noted.

[4] The Penny Pilot was established in January 2007 and was last extended in 2014. *See* Securities Exchange Act Release Nos. 55153 (January 23, 2007), 72 FR 4553 (January 31, 2007) (SR–Phlx–2006–74) (notice of filing and approval order establishing Penny Pilot); and 75286 (June 24, 2015), 80 FR 37333 (June 30, 2015) (SR–Phlx–2015–54) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2016).

[5] The options exchanges in the U.S. that have pilot programs similar to the Penny Pilot (together "pilot programs") are currently working on a proposal for permanent approval of the respective pilot programs.

[6] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's Web site. The Exchange proposes in its Penny Pilot rule that replacement issues will be selected based on trading activity in the previous six months. The replacement issues would be identified based on The Options Clearing Corporation's trading volume data. For example, for the July replacement, trading volume from December 1, 2015 through May 30, 2016 would be analyzed. The month immediately preceding the replacement issues' addition to the Pilot Program (*i.e.*, June) would not be used for purposes of the six-month analysis.

Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through December 31, 2016 or the date of permanent approval, if earlier, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following July 1, 2016, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange.

Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing.[12] However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2016–47 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–Phlx–2016–47. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *http://www.sec.gov/rules/sro.shtml.*

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

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[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR–Phlx–2016–47 and should be submitted on or before July 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14444 Filed 6–17–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78062; File No. SR–BatsEDGX–2016–21]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees as They Apply to the Equity Options Platform

June 14, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2016, Bats EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to EDGX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule for its equity options platform ("EDGX Options") to: (1) Increase the Exchange's standard rates for Customer[6] orders executed on the EDGX Options and to make related changes; (2) modify the criteria to qualify for a tier under the Exchange's existing tiered pricing structure; and (3) modify the Exchange's routing fees, as further described below.

Customer Orders

Fee codes PC and NC are currently appended to all Customer orders in Penny Pilot Securities[7] and Non-Penny Pilot Securities,[8] respectively, and result in a standard rebate of $0.01 per contract. The Exchange proposes to increase the standard rate for all Customer orders in Penny Pilot Securities and Non-Penny Pilot Securities to a standard rebate of $0.05 per contract. In addition to reflecting the increase in the Fee Codes and Associated Fees portion of the Exchange's fee schedule for fee codes PC and NC, the Exchange proposes to delete the reference to the $0.01 rebate on the Standard Rates table with respect to fee codes PC and NC. The Standard Rates table provides a range of rebates and fees applicable to executions on the Exchange in summary form.

In addition to the standard rebate provided to all Customer orders, the Exchange offers several Customer Volume Tiers pursuant to footnote 1. The Customer Volume Tiers currently consist of six separate tiers, each providing an enhanced rebate to a Member's Customer orders that yield fee codes PC or NC upon satisfying monthly volume criteria required by the respective tier. Pursuant to Customer Volume Tier 1, the lowest volume tier, a Member currently receives a rebate of $0.05 per contract where the Member has an ADV[9] in Customer orders equal to or greater than 0.10% of average TCV.[10] Because the Exchange is increasing its standard rebate to $0.05 per share, the Exchange proposes to delete current Tier 1 and to re-number Tiers 2 through 6 as Tiers 1 through 5.

Tiered Pricing Changes

In addition to the Customer Volume Tiers described above and in footnote 1 of the fee schedule, the Exchange also provides reduced fees or enhanced rebates under the Market Maker Volume Tiers described in footnote 2. Fee codes PM and NM are currently appended to all Market Maker[11] orders in Penny Pilot Securities and Non-Penny Pilot Securities, respectively, and result in a standard fee of $0.19 per contract. The

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[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." *See* Exchange Rule 1.5(n).

[6] The term "Customer" applies to any transaction identified by a Member for clearing in the Customer range at the Options Clearing Corporation ("OCC"), excluding any transaction for a Broker Dealer or a "Professional" as defined in Exchange Rule 16.1.

[7] The term "Penny Pilot Security" applies to those issues that are quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01.

[8] The term "Non-Penny Pilot Security" applies to those issues that are not Penny Pilot Securities quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01.

[9] "ADV" means average daily volume calculated as the number of contracts added or removed, combined, per day.

[10] "TCV" means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

[11] The term "Market Maker" applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37).

Market Maker Volume Tiers in footnote 2 consist of seven separate tiers, each providing a reduced fee or rebate to a Member's Market Maker orders that yield fee codes PM or NM upon satisfying monthly volume criteria required by the respective tier.

The Exchange proposes to modify the qualifying criteria for Customer Volume Tier 6 (as described above, the Exchange proposes to re-number such tier as Customer Volume Tier 5, hereafter "current Customer Volume Tier 6") under footnote 1 and for Market Maker Volume Tier 7 under footnote 2, as further described below.

Pursuant to current Customer Volume Tier 6, a Member currently will receive a rebate of $0.21 per contract where: (1) The Member has an ADV in Customer orders equal to or greater than 0.20% of average TCV; and (2) the Member has an ADV in Market Maker orders equal to or greater than 0.15% of average TCV. Similarly, pursuant to Market Maker Volume Tier 7, the Exchange provides a reduced fee of $0.10 per contract where: (1) The Member has an ADV in Customer orders equal to or greater than 0.20% of average TCV; and (2) the Member has an ADV in Market Maker orders equal to or greater than 0.15% of average TCV. Thus, the qualifying criteria for current Customer Volume Tier 6 and Market Maker Volume Tier 7 are identical.

In order to encourage the entry of additional orders to the Exchange, the Exchange proposes to modify current Customer Volume Tier 6 and Market Maker Volume Tier 7 to reduce the criteria necessary to qualify. Specifically, the Exchange proposes to provide the same rebate, $0.21 per contract, and reduced fee, $0.10 per contract, as it currently provides for these tiers, respectively, and to provide such rebate or fee where: (1) The Member has an ADV in Customer orders equal to or greater than 0.20% of average TCV; and (2) the Member has an ADV in Market Maker orders equal to or greater than 0.10% of average TCV. Thus, the Exchange proposes to reduce the criteria of the second prong from 0.15% of average TCV to 0.10% of average TCV. The Exchange believes that this change will make current Customer Volume Tier 6 and Market Maker Volume Tier 7 more attainable for additional Members.

Routing Fees

The Exchange proposes to modify the fees charged for orders routed away from the Exchange and executed at various away options exchanges.[12] The Exchange currently charges flat rate routing fees for executions at away options exchanges that have been placed into groups based on the approximate cost of routing to such venues. The grouping of away options exchanges is based on the cost of transaction fees assessed by each venue as well as costs to the Exchange for routing (*i.e.*, clearing fees, connectivity and other infrastructure costs, membership fees, etc.) (collectively, "Routing Costs"). To address different fees at various other options exchanges, the Exchange proposes to increase fees applicable to routing to certain away options exchanges in Non-Penny Securities, as further described below.

With respect to Non-Customer orders in Non-Penny Pilot Securities, the Exchange appends fee code RO to all such orders routed to and executed at other options exchanges. Pursuant to fee code RO, the Exchange charges a fee of $1.20 per contract. The Exchange proposes to increase this fee from $1.20 per contract to $1.25 per contract to account for additional Routing Costs incurred by the Exchange.

With respect to Customer orders in Non-Penny Pilot Securities the Exchange applies one of two fee codes: (1) Fee code RP, which results in a fee of $0.25 per contract and applies to all Customer orders (including orders in Penny Pilot Securities) routed to and executed at AMEX, BOX, BX Options, CBOE, ISE Mercury, MIAX or PHLX; or (2) fee code RR, which results in a fee of $0.90 per contract and applies to all Customer orders in Non-Penny Pilot Securities routed to and executed at ARCA, BZX Options, C2, ISE, ISE Gemini or NOM. The Exchange proposes to increase the fee under fee code RR from $0.90 per contract to $1.00 per contract to account for additional Routing Costs incurred by the Exchange. The Exchange does not propose any change to fee code RP.

As set forth above, the Exchange's proposed approach to routing fees is to set forth in a simple manner certain flat fees that approximate the cost of routing to other options exchanges. The Exchange then monitors the fees charged as compared to the costs of its routing services, as well as monitoring for specific fee changes by other options exchanges, and intends to adjust its flat routing fees and/or groupings to ensure that the Exchange's fees do indeed result in a rough approximation of overall Routing Costs, and are not significantly higher or lower in any area. The increases are proposed primarily in order to account for increased Routing Costs incurred by the Exchange.

Implementation Date

The Exchange proposes to implement these amendments to its fee schedule immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[13] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[14] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls.

The Exchange believes its proposed increase to the standard rebate provided to Customer orders executed on the Exchange (as well as the related changes) is reasonable, fair and equitable, and non-discriminatory in that the rebate will provide additional incentive to all Members to enter Customer orders to the Exchange. The Exchange also believes the rebate for Customer orders remains consistent with pricing previously offered by the Exchange as well as other options exchanges and does not represent a significant departure from such pricing.

Further, the Exchange believes that the proposed modifications to the tiered pricing structure are reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive. As a relatively new options exchange, the proposed fee structure remains intended to attract order flow to the Exchange by offering market participants a competitive yet simple pricing structure. At the same time, the Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange.

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[12] Other options exchanges to which the Exchange routes include: Bats BZX Exchange, Inc. ("BZX Options"), BOX Options Exchange LLC ("BOX"), Chicago Board Options Exchange, Inc. ("CBOE"), C2 Options Exchange, Inc. ("C2"), International Securities Exchange, Inc. ("ISE"), ISE Gemini, LLC ("ISE Gemini"), ISE Mercury, LLC ("ISE Mercury"), Miami International Securities Exchange, LLC ("MIAX"), Nasdaq Options Market LLC ("NOM"), Nasdaq OMX BX LLC ("BX Options"), Nasdaq OMX PHLX LLC ("PHLX"), NYSE Arca, Inc. ("ARCA"), and NYSE MKT LLC ("AMEX").

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4).

Volume-based rebates such as those currently maintained on the Exchange have been widely adopted by options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value of an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. The proposed modification to the criteria required to qualify for current Customer Volume Tier 6 and Market Maker Volume Tier 7 is intended to incentivize Members to send additional Customer orders and Market Maker orders to the Exchange in an effort to qualify for the enhanced rebate or lower fee made available by the tiers.

The Exchange believes that the proposed tiers, as proposed to be amended are reasonable, fair and equitable, and non-discriminatory, for the reasons set forth above with respect to volume-based pricing generally and because such changes will incentivize participants to further contribute to market quality. The proposed tiers will provide an additional way for market participants to qualify for enhanced rebates or reduced fees. The Exchange also believes that the tiered pricing structure remains consistent with pricing previously offered by the Exchange as well as other options exchanges and does not represent a significant departure from such pricing structures.

With respect to the proposed increases under the Exchange's routing structure, the Exchange again notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues or providers of routing services if they deem fee levels to be excessive. As explained above, the Exchange seeks to approximate the cost of routing to other options exchanges, including other applicable costs to the Exchange for routing, in order to provide a simplified and easy to understand pricing model. The Exchange believes that a pricing model based on approximate Routing Costs is a reasonable, fair and equitable approach to pricing. Specifically, the Exchange believes that its proposal to modify fees is fair, equitable and reasonable because the fees are generally an approximation of the cost to the Exchange for routing orders to such exchanges. The Exchange believes that its flat fee structure for orders routed to various venues is a fair and equitable approach to pricing, as it will provide certainty with respect to execution fees at groups of away options exchanges. In order to achieve its flat fee structure, taking all costs to the Exchange into account, the Exchange will in some instances charge a higher premium to route to certain options exchanges than to others. As a general matter, the Exchange believes that the proposed fees will allow it to recoup and cover its costs of providing routing services to such exchanges and to make some additional profit in exchange for the services it provides. The Exchange also believes that the proposed increase to the fee structure for orders routed to and executed at these away options exchanges is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members. Finally, the Exchange notes that it intends to consistently evaluate its routing fees, including profit and loss attributable to routing, as applicable, in connection with the operation of a flat fee routing service, and would consider future adjustments to the proposed pricing structure to the extent it was recouping a significant profit or loss from routing to away options exchanges.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendments to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposal is a competitive proposal that is seeking to further the growth of the Exchange and to update the Exchange's fees for routing orders to away options exchanges based on Routing Costs. With respect to the increase to the standard Customer rebate and other tiered pricing changes, the Exchange has structured the proposed fees and rebates to attract additional volume to the Exchange. With respect to the proposed changes to the routing fee structure, the Exchange believes that the proposed fees are competitive in that they will continue to provide a simple approach to routing pricing that some Members may favor. Additionally, Members may opt to disfavor the Exchange's pricing, including pricing for transactions on the Exchange as well as routing fees, if they believe that alternatives offer them better value. In particular, with respect to routing services, such services are available to Members from other broker-dealers as well as other options exchanges. The Exchange also notes that Members may choose to mark their orders as ineligible for routing to avoid incurring routing fees.[15] Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[16] and paragraph (f) of Rule 19b–4 thereunder.[17] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsEDGX–2016–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGX–2016–21. This file number should be included on the subject line if email is used. To help the

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[15] *See* Exchange Rule 21.1(d)(7) (describing "Book Only" orders) and Exchange Rule 21.9(a)(1) (describing the Exchange's routing process, which requires orders to be designated as available for routing).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f).

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGX–2016–21 and should be submitted on or before July 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14446 Filed 6–17–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78064; File No. SR–BX–2016–029]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7018(a)

June 14, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2016, NASDAQ BX, Inc. ("Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Rule 7018(a) to delete text from the preamble [sic] the rule concerning Consolidated Volume.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to delete rule text from the preamble of Rule 7018(a) concerning Consolidated Volume. The rule currently defines Consolidated Volume as the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. The Exchange excludes from the calculations of fees and credits that have a Consolidated Volume component all trading that occurs on the date of the annual reconstitution of the Russell Investments. The annual reconstitution represents a day of abnormal trading volume, as the Russell Investment indexes adjust holdings to accurately reflect the current state of equity markets and their market segments.[3] Consequently, the Exchange excludes the date of the Russell Investment reconstitution in all calculations of fees and credits because it is not reflective of a member's normal trading. The Exchange expresses this under the rule by stating that, "[f]or purposes of calculating Consolidated Volume and the extent of a member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity." The Exchange believes that the text stating "expressed as a percentage of, or ratio to, Consolidated Volume" may be confusing to market participants in understanding how the Exchange excludes trading activity on the day of the Russell Investment reconstitution should the Exchange ever adopt a fee or credit tier based on a different measure of Consolidated Volume. Specifically, the Exchange seeks to clarify that all trading activity on the date of the Russell Investment reconstitution (including trading activity not based on a percentage or ratio of Consolidated Volume) is excluded from a member's trading activity for determining credit and fee tiers. This proposed change has no impact on the Exchange at this time, as all tiers under the rule are currently expressed as a percentage of Consolidated Volume; however, if the Exchange adopted a new metric, such as a certain nominal level of share volume (*e.g.*, a requirement to add 5 million shares), the Exchange wants to ensure that member understand that all trading activity on the day of the Russell Investment reconstitution would be excluded for purposes of determining what fees and credits a member qualifies for.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that deleting rule text from the preamble of Rule 7018(a) concerning Consolidated Volume is reasonable because it will help clarify how credit and fee tiers that rely on a calculation of Consolidated Volume will be handled by the Exchange during the annual Russell Indexes reconstitution. Currently, the rule text could be interpreted to apply to only a member organization's trading activity under a fee or credit tier that is expressed as a ratio or percentage of Consolidated Volume. The Exchange believes that, should it ever adopt a credit or fee tier based on another measure of Consolidated Volume, such an interpretation would undermine the Exchange's intent to exclude the abnormal trading activity that occurs on that day. Accordingly, the Exchange believes that it is reasonable to remove the potentially confusing rule text.

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[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See https://www.ftserussell.com/research-insights/russell-reconstitution.*

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4) and (5).

The Exchange believes that deleting rule text from the preamble of Rule 7018(a) concerning Consolidated Volume is an equitable allocation and is not unfairly discriminatory because the proposed change only serves to clarify the application of the rule and does not alter how Consolidated Volume is calculated. Thus, the Exchange will apply the same process to all similarly situated member organizations that seek to qualify under a fee or credit tier under the rule that relies on a calculation of Consolidated Volume.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is being made to clarify the rule and avoid potential market participant confusion that may be caused by the existing rule text. As such, the Exchange does not believe that the proposed change places any burden on competition whatsoever.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[6]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2016–029 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2016–029. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BX–2016–029 and should be submitted on or before July 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14448 Filed 6–17–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Advisers Act of 1940; Release No. IA–4421/June 14, 2016]

Order Approving Adjustment for Inflation of the Dollar Amount Tests in Rule 205–3 Under the Investment Advisers Act of 1940

I. Background

Section 205(a)(1) of the Investment Advisers Act of 1940 ("Advisers Act") generally prohibits an investment adviser from entering into, extending, renewing, or performing any investment advisory contract that provides for compensation to the adviser based on a share of capital gains on, or capital appreciation of, the funds of a client (also known as performance compensation or performance fees).[1] Section 205(e) authorizes the Securities and Exchange Commission ("Commission") to exempt any advisory contract from the performance fee prohibition if the contract is with persons who the Commission determines do not need the protections of the prohibition, on the basis of certain factors described in that section.[2] Rule 205–3 under the Advisers Act exempts an investment adviser from the prohibition against charging a client performance fees in certain circumstances when the client is a "qualified client." The rule allows an adviser to charge performance fees if the client has at least a certain dollar amount in assets under management (currently, $1,000,000) with the adviser immediately after entering into the advisory contract ("assets-under-management test") or if the adviser reasonably believes, immediately prior to entering into the contract, that the client had a net worth of more than a certain dollar amount (currently, $2,000,000) ("net worth test").[3]

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[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 80b–5(a)(1).

[2] Under section 205(e), the Commission may determine that persons do not need the protections of section 205(a)(1) on the basis of such factors as "financial sophistication, net worth, knowledge of and experience in financial matters, amount of assets under management, relationship with a registered investment adviser, and such other factors as the Commission determines are consistent with [section 205]." 15 U.S.C. 80b–5(e).

The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act")[4] amended section 205(e) of the Advisers Act to provide that, by July 21, 2011 and every five years thereafter, the Commission shall adjust for inflation the dollar amount thresholds included in rules issued under section 205(e), rounded to the nearest $100,000.[5] The Commission last issued an order to revise the dollar amount thresholds of the assets-under-management and net worth tests (to $1,000,000 and $2,000,000, respectively, as discussed above) on July 12, 2011.[6] Rule 205–3 currently codifies the threshold amounts revised by the 2011 Order and states that the Commission will issue an order on or about May 1, 2016, and approximately every five years thereafter, adjusting for inflation the dollar amount thresholds of the rule's assets-under-management and net worth tests based on the Personal Consumption Expenditures Chain-Type Price Index ("PCE Index," published by the United States Department of Commerce).[7]

II. Adjustment of Dollar Amount Thresholds

On May 18, 2016, the Commission published a notice of intent to issue an order that would adjust for inflation, as appropriate, the dollar amount thresholds of the asset-under-management test and the net worth test.[8] The Commission stated that, based on calculations that take into account the effects of inflation by reference to historic and current levels of the PCE Index, the dollar amount of the assets-under-management test would remain $1,000,000, and the dollar amount of the net worth test would increase from $2,000,000 to $2,100,000.[9] These dollar amounts—which are rounded to the nearest $100,000 as required by section 205(e) of the Advisers Act—would reflect inflation from 2011 to the end of 2015.

The Commission's notice established a deadline of June 13, 2016 for submission of requests for a hearing. No requests for a hearing have been received by the Commission.

III. Effective Date of the Order

This Order is effective as of August 15, 2016. To the extent that contractual relationships are entered into prior to the Order's effective date, the dollar amount test adjustments in the Order would not generally apply retroactively to such contractual relationships, subject to the transition rules incorporated in rule 205–3.[10]

IV. Conclusion

Accordingly, pursuant to section 205(e) of the Investment Advisers Act of 1940 and section 418 of the Dodd-Frank Act,

It is hereby ordered that, for purposes of rule 205–3(d)(1)(i) under the Investment Advisers Act of 1940 [17 CFR 275.205–3(d)(1)], a qualified client means a natural person who, or a company that, immediately after entering into the contract has at least $1,000,000 under the management of the investment adviser; and

It is further ordered that, for purposes of rule 205–3(d)(1)(ii)(A) under the Investment Advisers Act of 1940 [17 CFR 275.205–3(d)(1)(ii)(A)], a qualified client means a natural person who, or a company that, the investment adviser entering into the contract (and any person acting on his behalf) reasonably believes, immediately prior to entering into the contract, has a net worth (together, in the case of a natural person, with assets held jointly with a spouse) of more than $2,100,000.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2016–14450 Filed 6–17–16; 8:45 am]

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[3] *See* rule 205–3(d)(1)(i)–(ii); *see also infra* note 6 and accompanying text.

[4] Public Law 111–203, 124 Stat. 1376 (2010).

[5] *See* section 418 of the Dodd-Frank Act (requiring the Commission to issue an order every five years revising dollar amount thresholds in a rule that exempts a person or transaction from section 205(a)(1) of the Advisers Act if the dollar amount threshold was a factor in the Commission's determination that the persons do not need the protections of that section).

[6] *See* text accompanying *supra* note 3; Order Approving Adjustment for Inflation of the Dollar Amount Tests in Rule 205–3 under the Investment Advisers Act of 1940, Investment Advisers Act Release No. 3236 (July 12, 2011) [76 FR 41838 (July 15, 2011)] ("2011 Order"). The 2011 Order was effective as of September 19, 2011. It applies to contractual relationships entered into on or after the effective date and does not apply retroactively to contractual relationships previously in existence.

[7] *See* rule 205–3(e).

[8] *See* Investment Adviser Performance Compensation, Investment Advisers Act Release No. 4388 (May 18, 2016) [81 FR 32686 (May 24, 2016)]. While the dollar amount of the assets under-management test would not change, because the amount of the Commission's inflation adjustment calculation is smaller than the rounding amount specified under rule 205–3, the dollar amount of the net worth test would be adjusted as a result of Commission's inflation adjustment calculation effected pursuant to the rule.

[9] *See id.* at section II.A.

[10] *See* rule 205–3(c)(1) ("If a registered investment adviser entered into a contract and satisfied the conditions of this section that were in effect when the contract was entered into, the adviser will be considered to satisfy the conditions of this section; Provided, however, that if a natural person or company who was not a party to the contract becomes a party (including an equity owner of a private investment company advised by the adviser), the conditions of this section in effect at that time will apply with regard to that person or company."); *see also* Investment Adviser Performance Compensation, Investment Advisers Act Release No. 3198 (May 10, 2011) [76 FR 27959 (May 13, 2011)], at section II.B.3.

SECURITIES AND EXCHANGE COMMISSION

[Release No. SIPA–177; File No. SIPC–2016–01]

Securities Investor Protection Corporation; Notice of Filing of Proposed Bylaw Amendments Relating to Assessment of SIPC Members

June 15, 2016.

Pursuant to section 3(e)(1) of the Securities Investor Protection Act of 1970 ("SIPA"),[1] on May 2, 2016 the Securities Investor Protection Corporation ("SIPC") filed with the Securities and Exchange Commission ("Commission") proposed bylaw amendments relating to assessments on SIPC member broker-dealers. On May 27, 2016, SIPC consented to a 60-day extension of time before the proposed bylaw amendments take effect pursuant to section 3(e)(1) of SIPA.[2] Pursuant to section 3(e)(1)(B) of SIPA, the Commission finds that this proposed bylaw change involves a matter of such significant public interest that public comment should be obtained.[3] Therefore, pursuant to section 3(e)(2)(A) of SIPA,[4] the Commission is publishing this notice to solicit comments on the proposed bylaw change from interested persons.

In its filing with the Commission, SIPC included statements concerning the purpose of and statutory basis for the proposed bylaw amendments as described below, which description has been substantially prepared by SIPC.

I. SIPC's Statement of the Purpose of, and Statutory Basis for, Proposed SIPC Bylaw Amendments Relating to Assessment of SIPC Members

Overview

Pursuant to Section 3(e)(1) of SIPA, SIPC submits this statement of the purpose of, and statutory basis for, proposed amendments to the SIPC Assessments Bylaw.[5] Among other things, the Assessments Bylaw, at Article 6 of the SIPC Bylaws ("Article

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[1] 15 U.S.C. 78ccc(e)(1).

[2] 15 U.S.C. 78ccc(e)(1).

[3] 15 U.S.C. 78ccc(e)(1)(B).

[4] 15 U.S.C. 78ccc(e)(2)(A).

[5] 15 U.S.C. 78ccc(e)(1).

6"), currently provides for an assessment rate of ¼ of one percent of each member's net operating revenues from the securities business until the SIPC Fund reaches $2.5 billion and SIPC determines that the Fund will remain at or above $2.5 billion for at least six months. Once that determination is made, the assessment rate falls to a "minimum assessment" of 0.02 percent of the member's net operating revenues from the securities business.

Notwithstanding the foregoing, Article 6 also provides that the assessment rate is ¼ of one percent of annual net operating revenues if it is reasonably likely that the balance of the Fund will fall below $2.5 billion and remain at less than $2.5 billion for six months or more. Under the Bylaws, then, it is possible for the rate to change, in relatively short order, from ¼ of one percent to a minimum assessment, and back to ¼ of one percent.

SIPC continues to examine whether the Fund "target balance" of $2.5 billion is adequate for SIPC to carry out its mission of customer protection. Whether or not $2.5 billion is sufficient, in furtherance of its mission, SIPC wishes to ensure that at a minimum and to the extent possible, the Fund does not fall below $2.5 billion. Accordingly, in setting the assessment rate, SIPC deems it prudent to consider not only the size of the Fund over a six-month period, but SIPC's actual expenditures and its projected expenditures from the Fund over a longer term. In addition, the size of the Fund is more likely to stay at or above the target balance if there is a more gradual progression in rates, before the minimum assessment rate is imposed. Finally, such measures would make less likely sudden changes in the assessment rate while giving SIPC members some relief in the amount of the assessment that they owe.

With these considerations in mind, SIPC proposes to modify the Assessments Bylaw in two respects: One, to impose an intermediary assessment rate that would apply when the balance of the SIPC Fund is expected to be $2.5 billion for at least six months but SIPC's unrestricted net assets, as reflected in its most recent audited Statement of Financial Position, are less than $2.5 billion; and two, to amend the date on which any change in assessments becomes effective.

Statement of Purpose and Statutory Basis

Background

Section 4(a)(1) of SIPA authorizes SIPC to establish a "SIPC Fund" ("the SIPC Fund" or "Fund") from which all expenditures by SIPC are to be made.[6] Examples of SIPC expenditures include advances to trustees to satisfy customer claims, and to pay administrative expenses in SIPA proceedings where the general estate is insufficient. The SIPC Fund also supports the day-to-day operations of SIPC.

All SIPC members pay an assessment into the SIPC Fund.[7] After consultation by SIPC with self-regulatory organizations, the assessment is in the amount that SIPC deems "necessary and appropriate," to establish and maintain the SIPC Fund and to repay any borrowings by SIPC. Currently, the rate stands at ¼ of one percent per year of SIPC members' net operating revenues derived from the securities business.[8] The rate is to remain at ¼ of one percent until the balance of the SIPC Fund, as defined in section 4(a)(2) of SIPA,[9] excluding SIPC confirmed lines of credit, reaches a target balance of $2.5 billion, and SIPC determines that the Fund will remain at $2.5 billion for at least six months.[10] If that determination is made, the rate falls to a "minimum assessment" which is 0.02 percent of each member's annual net operating revenues from the securities business.[11]

Article 6, however, also provides that if SIPC determines that the SIPC Fund is, or is reasonably likely to be, less than $2.5 billion and will likely remain at less than $2.5 billion for six months or more, exclusive of confirmed lines of credit, then the assessment rate is to be ¼ of one percent of the member's annual net operating revenue.[12]

The Proposed Amendments

A. Imposition of an Intermediary Assessment Rate

Where large SIPA liquidation proceedings are pending that require sizeable advances by SIPC, the SIPC Fund may be at $2.5 billion for six months, but then fall significantly below that amount as additional advances are made. Under Article 6, Section 1(a)(1)(A), once the Fund reaches $2.5 billion and is projected to remain at or above that amount for six months or more, SIPC could change the assessment rate from ¼ of one percent, to 0.02 percent, of net operating revenues from the securities business. On the other hand, because projected expenditures in pending proceedings could reasonably cause the balance of the SIPC Fund to be less than $2.5 billion, but more than $150 million, for six months or more, SIPC alternatively could require that the assessment rate remain at ¼ of one percent.[13] This situation is problematic not only for SIPC, but for its members. SIPC members might reasonably expect to pay a minimum assessment once the Fund reaches $2.5 billion, but even if they do, they could be subject to a sudden increase in the assessment as the rate returns to ¼ of one percent.

To provide clarity in this situation and to maintain the SIPC Fund at or above the target balance, and to offer some relief in the assessment that members must pay while reducing the likelihood of sudden changes in the rates, SIPC proposes to amend Article 6 as follows.

First, when the SIPC Fund reaches $2.5 billion and is projected to be at $2.5 billion for six months or more, SIPC will consider the balance of its unrestricted net assets, as reflected in its most recent audited Statement of Financial Position. Among other items, included within the calculation of unrestricted net assets is provision for trustees' estimated costs to complete ongoing customer protection proceedings.[14] Thus, in setting the assessment rate, SIPC will consider not only the balance of the SIPC Fund, but projected long-term liabilities.

Second, SIPC will impose an annual assessment rate of 0.15 percent of a member's net operating revenues from the securities business [15] if (A) the amount of the SIPC Fund is at $2.5 billion or more; (B) SIPC has determined that the Fund will remain at or above $2.5 billion for at least six months; but

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[6] 15 U.S.C. 78ddd(a)(1).

[7] 15 U.S.C. 78ddd(c)(2).

[8] Article 6, § 1(a)(1)(A).

[9] 15 U.S.C. 78ddd(a)(2)

[10] Article 6, § 1(a)(1)(B)

[11] *Id.*

[12] Article 6, § 1(a)(1)(C)(i). If the amount is less than $150 million, the assessment is in an amount to be determined by SIPC, but cannot be less than ¼ of one percent of the member's annual gross revenues from the securities business. Article 6, § 1(a)(1)(C)(ii). If the Fund is less than $100 million, then the amount of the assessment also is determined by SIPC but, each year, it cannot be less than ½ of one percent of each member's annual gross revenues from the securities business. Article 6, § 1(a)(1)(C)(iii); 15 U.S.C. 78ddd(d)(1)(A) and (B). In no event may the assessment rate be more than ½ of one percent annually of the member's gross revenues from the securities business, unless SIPC determines that a higher rate, but not one that is higher than one (1) percent of gross revenues, will not have a material adverse effect on the financial condition of SIPC members or their customers. Article 6, § 1(a)(1)(C)(iv); 15 U.S.C. 78ddd(c)(3)(B).

[13] Article 6, § 1(a)(1)(C)(i).

[14] *See, e.g.,* 2015 SIPC Annual Report at 20 (*http://www.sipc.org/Content/media/annual-reports/2015-annual-report.pdf*).

[15] Net operating revenues from the securities business are gross revenues from the securities business, as defined in Section 16(9) of SIPA, 15 U.S.C. 78*lll*(9), less total interest and dividend expense, but not exceeding total interest and dividend income. *See* Article 6, § 1(g). *See also http://www.sipc.org/Content/media/filing-forms/SIPC-6-20130830.PDF.*

(C) SIPC's unrestricted net assets, as reflected in its most recent audited Statement of Financial Condition, are less than $2.5 billion. This measure establishes an intermediary assessment rate of 0.15 percent between the ¼ of one percent assessment imposed on SIPC members and the minimum assessment, and provides for a more gradual progression toward the imposition of a minimum assessment.

B. Amendment of the Effective Date of a Change in the Assessment

In addition to the foregoing, SIPC proposes to amend Article 6 with respect to when a change in assessments becomes effective. Currently, Article 6, Section 1(a)(1), provides that a change in assessments is to occur on the first day of the month following the date on which SIPC announces a change in the assessment and continue until SIPC provides otherwise ("Notice Provision"). In the ordinary course and to give as much notice to members as possible, the SIPC Board of Directors determines the rate of assessment at its September Meeting. The Board's determination is announced shortly thereafter but is not made effective until the first day of the following year. *See, e.g., http://www.sipc.org/for-members/assessment-rate.* SIPC last announced an assessment rate change (from a minimum assessment to the current ¼ of one percent) on March 2, 2009, to take effect on April 1, 2009. The assessment rate has continued unchanged since then.

In order to give its members as much notice as possible of the assessment rate for the following year, SIPC has determined to amend the Notice Provision. An assessment rate will be effective on the first day of the year following the date on which SIPC announces its determination, consistent with SIPC's practice that the determination of the rate normally will occur in September. There may be emergency situations, however, when the need for an assessment rate to become effective is more immediate. In that case, the assessment rate will be effective on the date announced by SIPC provided that the exigency of the circumstances so warrants.

II. Need for Public Comment

Section 3(e)(1) of SIPA provides that the Board of Directors of SIPC must file a copy of any proposed bylaw change with the Commission, accompanied by a concise general statement of the basis and purpose of the proposed bylaw change.[16] The proposed bylaw change will become effective thirty days after the date of filing with the Commission or upon such later date as SIPC may designate or such earlier date as the Commission may determine unless: (A) The Commission, by notice to SIPC setting forth the reasons for such action, disapproves the proposed bylaw change as being contrary to the public interest or contrary to the purposes of SIPA; or (B) the Commission finds that the proposed bylaw change involves a matter of such significant public interest that public comment should be obtained, in which case it may, after notifying SIPC in writing of such finding, require that the procedures for proposed SIPC rule changes in section 3(e)(2) of SIPA be followed with respect to the proposed bylaw change.[17]

The SIPC Fund, which is built from assessments on its members and the interest earned on the Fund, is used for the protection of customers of members liquidated under SIPA to maintain investor confidence in the securities markets. In light of this fact and that the bylaw change provides for a new assessment methodology, the Commission finds, pursuant to section 3(e)(1)(B) of SIPA,[18] that the proposed bylaw change involves a matter of such significant public interest that public comment should be obtained and that the procedures applicable to proposed SIPC proposed rule changes in section 3(e)(2) of SIPA[19] should be followed. As required by section 3(e)(1)(B) of SIPA, the Commission has notified SIPC of this finding in writing.

III. Date of Effectiveness of the Proposed Bylaw Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register**, or within such longer period (A) as the Commission may designate of not more than ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (B) as to which SIPC consents, the Commission shall: (i) By order approve such proposed rule change; or (ii) Institute proceedings to determine whether such proposed rule change should be disapproved.[20]

IV. Text of Proposed Bylaw Change

The text of the proposed bylaw change is provided below. Proposed new language is in italics; proposed deletions are in brackets.

ARTICLE 6

ASSESSMENTS

Section 1. General

(a) Amount of Assessment.

(1) The amount of each member's assessment for the member's fiscal year shall [either be (a) the minimum amount or (b)] *be* the product of the assessment rate established by SIPC for that fiscal year and either the member's gross or net revenues from the securities business, as follows:

(A) The assessment rate shall be one-fourth (¼) of one (1) percent per annum of net operating revenues from the *member's* securities business [until] *for each calendar year or part thereof unless* SIPC determines that the balance of the SIPC Fund, as defined in Section 4(a)(2) of the Act, exclusive of confirmed lines of credit, *(i)* has aggregated a [target] balance of $2.5 billion, and *(ii)* will remain at or above $2.5 billion for six months or more.

(B) *Notwithstanding the provisions of Section 1(a)(1)(A) herein,* if SIPC determines that the balance of the SIPC Fund, as defined in Section 4(a)(2) of the Act, exclusive of confirmed lines of credit, *(i)* has aggregated $2.5 billion, and *(ii)* will remain at or above $2.5 billion for six months or more, *but SIPC's unrestricted net assets, as reflected in SIPC's most recent audited Statement of Financial Position, are less than $2.5 billion, the assessment rate shall be 0.15 percent per annum of net operating revenues from the member's securities business for each calendar year or part thereof.*

(C) If SIPC determines that the balance of the SIPC Fund, as defined in Section 4(a)(2) of the Act, exclusive of confirmed lines of credit, has aggregated $2.5 billion or more, and will remain at or above $2.5 billion for six months or more, and SIPC's unrestricted net assets, as reflected in SIPC's most recent audited Statement of Financial Position, are at or above $2.5 billion, members shall pay a minimum assessment, which shall be 0.02 percent of the net operating revenues from the securities business for each calendar year or part thereof.

[C]*(D) Anything to the contrary herein notwithstanding,* if at any time SIPC determines that the balance of the SIPC Fund, as defined in Section 4(a)(2) of the Act, exclusive of confirmed lines of credit, aggregates or is reasonably likely to aggregate:

(i) less than [the target balance of] $2.5 billion and will likely remain less than $2.5 billion for a period of six (6) months or more—the amount of each member's assessment shall be at an assessment rate of one-fourth (¼) of one (1) percent per annum of net operating revenue.

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[16] 15 U.S.C. 78ccc(e)(1).

[17] 15 U.S.C. 78ccc(e)(1).

[18] 15 U.S.C. 78ccc(e)(1)(B).

[19] 15 U.S.C. 78ccc(e)(2).

[20] 15 U.S.C. 78ccc(e)(2)(B).

(ii) less than $150,000,000—the amount of each member's assessment shall be at an amount to be determined by SIPC, but in no case shall the amount of each member's assessment be less than an assessment rate of one-fourth (¼) of one (1) percent per annum of such member's gross revenues from the securities business.

(iii) less than $100,000,000—the amount of each member's assessment shall be at an amount to be determined by SIPC, but in no case shall the amount of each member's assessment be less than an assessment rate of one-half (½) of one (1) percent per annum of such member's gross revenues from the securities business.

(iv) The amount of each member's assessment shall not exceed one-half (½) of one (1) percent per annum of such member's gross revenues from the securities business, unless SIPC determines that a rate in excess of one-half (½) of one (1) percent during any twelve (12) month period will not have a material adverse effect on the financial condition of its members or their customers. No assessment made pursuant to this Section 1(a)(1) shall require payments during any such period that exceed in the aggregate one (1) percent of any member's gross revenues from the securities business for such period.

(2) Any change in assessments made in accordance with [the above] *Section 1(a)(1) herein* shall commence on the first day of the [month] *year* following the date on which SIPC announces its determination, *or on such other date if the exigency of the circumstances so warrants in SIPC's determination,* and continue until such time as SIPC provides otherwise.

(3) Commencing on the first day of the month following the date on which SIPC borrows moneys pursuant to Section 4(f) or Section 4(g) of the Act, and continuing while any such borrowing is outstanding and until such further time as SIPC provides otherwise, the amount of each member's assessment shall be at an assessment rate of not less than one-half (½) of one (1) percent per annum of such member's gross revenues from the securities business.

(b) Payments. Assessments shall be payable at such times and in such manner as may be determined by SIPC's Vice President—Finance with the approval of the Chairman.

(c) Collection of General Assessments. Each member of the Corporation who is a member of a self-regulatory organization shall pay assessments to its collection agent. In the case of members who are not members of any self-regulatory organization, assessments shall be paid directly to the Corporation.

(d) Report by Collection Agents. Within 45 days after each due date, each self-regulatory organization which is the collection agent shall submit a written report to the Corporation as to any entity for whom it acts as collection agent whose filing or assessment payment has not been received.

(e) Interest on Assessments. If all or any part of an assessment payable under Section 4 of the Act has not been received by the collection agent within 15 days after the due date thereof, the member shall pay, in addition to the amount of the assessment, interest at the rate of 20% per annum on the unpaid portion of the assessment for each day it has been overdue. If any broker or dealer has incorrectly filed a claim for exclusion from membership in the Corporation, such broker or dealer shall pay, in addition to assessments due, interest at the rate of 20% per annum on the unpaid assessment for each day it has not been paid since the date on which it should have been paid.

(f) Gross Revenues. The term "gross revenues from the securities business" includes the revenues in the definition of gross revenues from the securities business set forth in the applicable sections of the Act.

(g) Net Operating Revenues. The term "net operating revenues from the securities business" means gross revenues from the securities business less interest and dividend expenses, and includes those clarifications as are set forth in the SIPC assessment forms and instructions.

Section 2. Overpayments

If the final annual reconciliation filed by a terminated member reflects an assessment overpayment carried forward that exceeds $150.00, SIPC may refund such excess to the member upon receipt of the member's written request therefor and after the member's SIPC collection agent has confirmed to SIPC that all of the member's SIPC assessment form filings and payments and reports required by SEC Rule 17a-5 covering periods through the termination date have been reviewed and accepted.

Section 3. Interpretation of Terms

For purposes of this Article:

(a) The term "securities in trading accounts" shall mean securities held for sale in the ordinary course of business and not identified as having been held for investment.

(b) The term "securities in investment accounts" shall mean securities that are clearly identified as having been acquired for investment in accordance with provisions of the Internal Revenue Code applicable to dealers in securities.

(c) The term "fees and other income from such other categories of the securities business" shall mean all revenue related either directly or indirectly to the securities business except revenue included in Section 16(9)(A)–(K) and revenue specifically excepted in Section 4(c)(3)(C).

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SIPC–2016–01 on the subject line.

Paper Comments

- Send paper comments to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All comments should refer to File Number SIPC–2016–01. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/other.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed bylaw change that are filed with the Commission, and all written communications relating to the proposed bylaw change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SIPC–2016–01, and should be submitted on or before July 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Brent J. Fields,

Secretary.

[FR Doc. 2016–14499 Filed 6–17–16; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2016–0027]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov,* or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2016–0027].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than August 19, 2016. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Request for Earnings and Benefit Estimate Statement—20 CFR 404.810—0960–0466. Section 205(c)(2)(A) of the Social Security Act (Act) requires the Commissioner of SSA establish and maintain records of wages paid to, and amounts of self-employment income derived by, each individual as well as the periods in which such wages were paid and such income derived. An individual may complete and mail Form SSA–7004 to SSA's Data Operations Center in Wilkes-Barre, PA, to obtain a Statement of Earnings or Quarters of Coverage. SSA uses the information Form SSA–7004 collects to identify respondent's Social Security earnings records; extract posted earnings information; calculate potential benefit estimates; produce the resulting Social Security statements; and mail them to the requesters. The respondents are Social Security number holders requesting information about their Social Security earnings records and estimates of their potential benefits.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–7004	40,090	1	5	3,341

2. National Beneficiary Survey—0960–0800. SSA is continuing the National Beneficiary Survey (NBS), a survey which gathers data from Supplemental Security Income (SSI) recipients and Social Security Disability Insurance (SSDI) beneficiaries about their characteristics, their well-being, and other factors that promote or hinder employment. In particular, the survey seeks to uncover important information about the factors promoting beneficiary self-sufficiency and, conversely, factors impeding beneficiary efforts to maintain employment. We use this data to improve the administration and effectiveness of the SSDI and SSI programs. These results are valuable as SSA and other policymakers continue efforts to improve programs and services that help SSDI beneficiaries and SSI recipients become more self-sufficient.

Background

SSDI and SSI programs provide a crucial and necessary safety net for working-age people with disabilities. By improving employment outcomes for SSDI beneficiaries and SSI recipients, SSA supports the effort to reduce the reliance of people with disabilities on these programs. SSA conducted the prior NBS in 2004, 2005, 2006, and 2010, which was an important first step in understanding the work interest and experiences of SSI recipients and SSDI beneficiaries, and in gaining information about their impairments, health, living arrangements, family structure, pre-disability occupation, and use of non-SSA programs (*e.g.,* the Supplemental Nutrition Assistance Program). The prior NBS data is available to researchers and the public.

The National Beneficiary Survey (NBS)

The primary purpose of the new NBS-General Waves is to assess beneficiary well-being and interest in work, learn about beneficiary work experiences (successful and unsuccessful), and identify factors that promote or restrict long-term work success. Information collected in the survey includes factors such as health; living arrangements; family structure; current occupation; use of non-SSA programs; knowledge of SSDI and SSI work incentive programs; obstacles to work; and beneficiary interest and motivation to return to work.

We propose to conduct the first wave of the NBS-General Waves in 2015. We will further conduct subsequent rounds in 2017 (round 2) and 2019 (round 3). The information we will collect is not available from SSA administrative data or other sources. In the NBS-General Waves, the sample design is similar to what we used for the prior NBS. Enhancement of the prior questionnaire includes additional questions on the factors that promote or hinder employment success. In 2015 we conducted semi-structured qualitative interviews to provide SSA an in-depth understanding of factors that aid or inhibit individuals in their efforts to obtain and retain employment and advance in the workplace. We use the qualitative data to add context and understanding when interpreting survey results, and to inform the sample and survey design of rounds 2 and 3.

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[21] 17 CFR 200.30–3(f)(2)(i) & 200.30–3(f)(3).

Respondent participation in the NBS is voluntary and the decision to participate or not has no impact on current or future receipt of payments or benefits. Respondents are current SSDI beneficiaries and SSI recipients.

Type of Request: Revision of an OMB-approved information collection.

Administration year	Number of respondents	Frequency of response	Average burden per response (hours)	Estimated total annual burden (hours)
2017				
Cross-Sectional Samples:				
Representative Beneficiary Sample	4,000	1	50	3,333
Successful Workers	4,500	1	70	5,250
Subtotal				8,583
2019				
Cross-Sectional Samples:				
Representative Beneficiary Sample	4,000	1	50	3,333
Successful Workers	3,000	1	70	3,500
Longitudinal Samples:				
Successful Workers	2,250	1	70	2,625
Subtotal				9,458
Total Burden	17,750			18,041

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than July 20, 2016. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov.*

1. Application for Lump Sum Death Payment—20 CFR 404.390–404.392—0960–0013. SSA uses Form SSA–8–F4 to collect information needed to authorize payment of the lump sum death payment (LSDP) to a widow, widower, or children as defined in section 202(i) of the Act. Respondents complete the application for this one-time payment via paper form, telephone, or an in-person interview with SSA employees. Respondents are applicants for the LSDP.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
MCS	662,084	1	9	99,313
Paper	8,164	1	10	1,361
Total	670,248			100,674

2. Representative Payee Evaluation Report—20 CFR 404.2065 & 416.665—0960–0069. Sections 205(j) and 1631(a)(2) of the Social Security Act (Act) state SSA may appoint a representative payee to receive Title II benefits or Title XVI payments on behalf of individuals unable to manage or direct the management of those funds themselves. SSA requires appointed representative payees to report once each year on how they used or conserved those funds. When a representative payee fails to adequately report to SSA as required, SSA conducts a face-to-face interview with the payee and completes Form SSA–624, Representative Payee Evaluation Report, to determine the continued suitability of the representative payee to serve as a payee. The respondents are individuals or organizations serving as representative payees for individuals receiving Title II benefits or Title XVI payments, and who fail to comply with SSA's statutory annual reporting requirement.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–624	267,000	1	30	133,500

3. Medical Report on Adult with Allegation of Human Immunodeficiency Virus Infection; Medical Report on Child with Allegation of Human Immunodeficiency Virus Infection—20 CFR 416.933–20 CFR 416.934—0960–0500. Section 1631(e)(i) of the Act authorizes the Commissioner of SSA to gather information to make a determination about an applicant's claim for SSI payments; this procedure is the Presumptive Disability (PD). SSA uses Forms SSA–4814–F5 and SSA–4815–F6 to collect information necessary to determine if an individual with human immunodeficiency virus infection, who is applying for SSI disability benefits, meets the requirements for PD. The respondents are the medical sources of the applicants for SSI disability payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–4814–F5	18,750	1	8	2,500
SSA–4815–F6	120	1	10	20
Totals	18,870			2,520

4. Complaint Form for Allegations of Discrimination in Programs or Activities Conducted by the Social Security Administration—0960–0585. SSA uses Form SSA–437 to investigate and formally resolve complaints of discrimination based on disability, race, color, national origin (including limited English language proficiency), sex (including sexual orientation and gender identity), age, religion, or retaliation for having participated in a proceeding under this administrative complaint process in connection with an SSA program or activity. Individuals who believe SSA discriminated against them on any of the above bases may file a written complaint of discrimination. SSA uses the information to: (1) Identify the complaint; (2) identify the alleged discriminatory act; (3) establish the date of such alleged action; (4) establish the identity of any individual(s) with information about the alleged discrimination; and (5) establish other relevant information that would assist in the investigation and resolution of the complaint. Respondents are individuals who believe an SSA program or activity, or SSA employees, contractors or agents discriminated against them.

Type of Request: Revision on an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–437	255	1	60	255

5. Statement for Determining Continuing Entitlement for Special Veterans Benefits (SVB)—0960–0782. SSA regularly reviews individuals' claims for Special Veterans Benefits (SVB) to determine their continued eligibility and correct payment amounts. Individuals living outside the United States receiving SVB must report to SSA any changes that may affect their benefits, such as: (1) A change in mailing address or residence; (2) an increase or decrease in a pension, annuity, or other recurring benefit; (3) a return or visit to the United States for a calendar month or longer; or (4) an inability to manage benefits. SSA uses Form SSA–2010, to collect this information. Respondents are beneficiaries living outside the United States collecting SVB.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–2010	1,799	1	20	600

Dated: June 14, 2016.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2016–14443 Filed 6–17–16; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 9610]

60-Day Notice of Proposed Information Collection: Statement of Material Change, Merger, Acquisition, or Divestment of a Registered Party

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to August 19, 2016.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering "Docket Number: DOS–2016–0042" in the Search field. Then click the "Comment Now" button and complete the comment form.
- *Email: DDTCPublicComments@state.gov.*
- *Regular Mail:* Send written comments to: Directorate of Defense Trade Controls, Attn: Managing Director, 2401 E St. NW., Suite H–1205, Washington, DC 20522–0112.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Steve Derscheid—Management Analyst, who may be reached at *DerscheidSA@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Statement of Material Change, Merger, Acquisition, or Divestiture of a Registered Party.
- *OMB Control Number:* None.
- *Type of Request:* New Collection.
- *Originating Office:* Directorate of Defense Trade Controls, Bureau of Political Military Affairs, Department of State (T/PM/DDTC).
- *Form Number:* DS–7789.
- *Respondents:* Individuals and companies registered with DDTC and engaged in the business of manufacturing, brokering, exporting, or temporarily importing defense hardware or defense technology data.
- *Estimated Number of Respondents:* 1,700.
- *Estimated Number of Responses:* 1,700.
- *Average Time per Response:* 2 hours.
- *Total Estimated Burden Time:* 3,400 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection:

The Directorate of Defense Trade Controls (DDTC), Bureau of Political-Military Affairs, U.S. Department of State, in accordance with the Arms Export Control Act (AECA) (22 U.S.C. 2751 *et seq.*) and the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130), has the principal missions of taking final action on license applications and other requests for defense trade transactions via commercial channels, ensuring compliance with the statute and regulations, and collecting various types of reports. By statute, Executive Order, regulation, and delegation of authority, DDTC is charged with controlling the export and temporary import of defense articles, the provision of defense services, and the brokering thereof, which are covered by the U.S. Munitions List.

ITAR §§ 122.4 and 129.8 requires registrants to notify DDTC in the event of a change in registration information or if the registrant is a party to a merger, acquisition, or divestiture of an entity producing or marketing ITAR-controlled items. Based on certain conditions enunciated in the ITAR, respondents must notify DDTC of these changes at differing intervals—no less than 60 days prior to the event, in the event that a foreign person is acquiring a registered entity, and/or within 5 days of its culmination. This information is necessary for DDTC to ensure registration records are accurate and to determine whether the transaction is in compliance with the regulations (*e.g.* with respect to ITAR § 126.1); assess the steps that need to be taken with respect to existing authorizations (*e.g.* transfers); and to evaluate the implications for U.S. national security and foreign policy.

This information collection is estimated to take an average of 2 hours to execute, and DDTC expects to receive approximately 1,700 responses per year; therefore, the total burden for this collection will be 3,400 hours per year.

Methodology:

This information will be collected by DDTC's electronic case management system and respondents will certify the data via electronic signature.

Dated: June 9, 2016.

Lisa Aguirre,

Managing Director, Directorate of Defense Trade Controls, Department of State.

[FR Doc. 2016–14502 Filed 6–17–16; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Delegation of Authority No. 396]

Authority To Waive Section 907 of the FREEDOM Support Act

By virtue of the authority vested in the Secretary of State by the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a); the Assistance for the Independent States of the Former Soviet Union heading under Title II of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 (Pub. L. 107–115), as delegated pursuant to E.O. 12163, as amended by E.O. 13346; and delegated to me pursuant to Delegation of Authority 245–1, dated February 13, 2009, I hereby delegate to the Under Secretary for Political Affairs, to the extent authorized by law, the authority to make the determinations and certification to extend the waiver of section 907 of the FREEDOM Support Act of 1992 (Pub. L. 102–511) with respect to Azerbaijan.

Any actions related to the functions described herein that may have been taken prior to the date of this delegation are hereby confirmed and ratified. Such actions shall remain in force as if taken under this delegation of authority, unless or until such actions are rescinded, amended, or superseded.

The authority delegated herein may also be exercised by the Secretary, the Deputy Secretary, and the Deputy Secretary for Management and Resources.

This delegation of authority will terminate on March 21, 2017. This delegation of authority does not supersede or otherwise affect any other delegation of authority currently in effect.

This delegation shall be published in the **Federal Register**.

Dated: May 31, 2016.

Antony Blinken,

Deputy Secretary of State.

[FR Doc. 2016–14504 Filed 6–17–16; 8:45 am]

BILLING CODE 4710–23–P

DEPARTMENT OF STATE

[Public Notice: 9609]

60-Day Notice of Proposed Information Collection: Application for the Permanent Export, Temporary Export, or Temporary Import of Defense Munitions, Defense Services, and Related Technical Data

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to August 19, 2016.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering "Docket Number: DOS–2016–0043" in the Search field. Then click the "Comment Now" button and complete the comment form.
- *Email: DDTCPublicComments@state.gov*.
- *Regular Mail:* Send written comments to: Directorate of Defense Trade Controls, Attn: Managing Director, 2401 E St. NW., Suite H–1205, Washington, DC 20522–0112.

You must include the DS form number, information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Steve Derscheid—Directorate of Defense Trade Controls, Department of State, who may be reached at *DerscheidSA@state.gov*.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Application for Permanent Export, Temporary Export, or Temporary Import of Defense Munitions, Defense Services, and Related Technical Data.
- *OMB Control Number:* None.
- *Type of Request:* New Collection.
- *Originating Office:* Directorate of Defense Trade Controls, Bureau of Political Military Affairs, Department of State (T/PM/DDTC).
- *Form Number:* DS–7788.
- *Respondents:* Individuals and companies registered with DDTC and engaged in the business of exporting or temporarily importing defense hardware or defense technology data.
- *Estimated Number of Respondents:* 12,500.
- *Estimated Number of Responses:* 45,000.
- *Average Time per Response:* 3 hours.
- *Total Estimated Burden Time:* 135,000 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to obtain or retain benefits.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection:

The Directorate of Defense Trade Controls (DDTC), located in the Political-Military Affairs Bureau of the Department of State, has the principal mission of licensing the permanent export, temporary export, and temporary import of defense articles, defense services, and related technical data as enumerated in the United States Munitions List (USML), and to ensure that the sale, transfer, or brokering of such items are in the interest of U.S. national security and foreign policy. To this end, DDTC has historically utilized several form-based submissions to collect information from applicants for export or temporary import licenses. However, as new programmatic requirements have been promulgated, whether in response to changing geopolitical events, legislation, or interagency requirements, many aspects of the forms used by DDTC have become outdated.

This information collection will supersede forms DSP–5, DSP–6, DSP–61, DSP–62, DSP–71, and DSP–74 which are currently used by DDTC. Over a period of several months, DDTC staff have revised and updated the data collection fields to more closely mirror the needs of industry and federal government partners. Moreover, DDTC has acquired a new case management IT solution to modernize its business processes. As a part of this modernization process, licensing operations will move from the current, largely form-based submissions to an intuitive system which will allow both industry users and DDTC staff to smoothly and securely navigate the submission and review process. In addition, DDTC has worked closely with its interagency partners to construct this new licensing application to collate with the International Trade Data System (ITDS), a cornerstone of President Obama's export control reform initiative. Therefore, this information collection has been designed to both dovetail with the ITDS system in addition to achieving a higher level of usability and security for DDTC's current industry users.

Methodology:

This information will be collected via electronic submission to the Directorate of Defense Trade Controls. In the case of a major system outage, a continuity-of-operations plan has been developed to ensure submissions to DDTC can continue. A paper version of the form may be made available in cases of hardship or to those respondents who do not have internet access.

Dated: June 6, 2016.

Lisa Aguirre,

Managing Director, Directorate of Defense Trade Controls, Department of State.

[FR Doc. 2016–14501 Filed 6–17–16; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice: 9611]

60-Day Notice of Proposed Information Collection: Disclosure of Violations of the Arms Export Control Act

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are

requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to August 19, 2016.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering "Docket Number: DOS–2016–0041" in the Search field. Then click the "Comment Now" button and complete the comment form.
- *Email: DDTCPublicComments@state.gov.*
- *Regular Mail:* Send written comments to: Directorate of Defense Trade Controls, Department of State; 2401 E St. NW., Suite H1205, Washington, DC 20522. You must include the DS form number, information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Steve Derscheid, Directorate of Defense Trade Controls, Department of State, who may be reached at *DerscheidSA@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Disclosure of Violations of the Arms Export Control Act.
- *OMB Control No.:* 1405–0179.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* T/PM/DDTC.
- *Form No.:* DS–7787.
- *Respondents:* Individuals and companies engaged in the business of exporting or temporarily importing defense hardware or defense technology data.
- *Estimated Number of Respondents:* 12,500.
- *Estimated Number of Responses:* 1,500.
- *Average Time per Response:* 10 hours.
- *Total Estimated Burden Time:* 15,000 hours.
- *Frequency:* On occasion.
- *Obligation To Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The Directorate of Defense Trade Controls (DDTC), located in the Political-Military Affairs Bureau of the Department of State, encourages voluntary disclosures of violations of the Arms Export Control Act (AECA) (22 U.S.C. 2751 *et seq.*), its implementing regulations, the International Traffic in Arms Regulations (ITAR) (22 CFR 120–130), and any regulation, order, license, or other authorization issued thereunder. The information disclosed is analyzed by DDTC to ultimately determine whether to take administrative action concerning any violation that may have occurred. Voluntary disclosure may be considered a mitigating factor in determining the administrative penalties, if any, that may be imposed. Failure to report a violation may result in circumstances detrimental to the U.S. national security and foreign policy interests and will be an adverse factor in determining the appropriate disposition of such violations. Also, the activity in question might merit referral to the Department of Justice for consideration of whether criminal prosecution is warranted. In such cases, DDTC will notify the Department of Justice of the voluntary nature of the disclosure, but the Department of Justice is not required to give that fact any weight.

ITAR § 127.12 enunciates the information which should accompany a voluntary disclosure. Historically, respondents to this information collection submitted their disclosures to DDTC in writing via hard copy documentation. However, as part of an IT modernization project designed to streamline the collection and use of information by DDTC, a discrete form has been developed for the submission of voluntary disclosures. This will allow both DDTC and respondents submitting a disclosure to more easily track submissions.

Methodology: This information will be collected by electronic submission.

Dated: June 9, 2016.

Lisa Aguirre,

Managing Director, Directorate of Defense Trade Controls, Department of State.

[FR Doc. 2016–14503 Filed 6–17–16; 8:45 am]

BILLING CODE 4710–25–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 33 (Sub-No. 326X)]

Union Pacific Railroad Company—Abandonment Exemption—in Alameda County, Cal.

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments* to abandon all of its remaining trackage on Alameda Island in Alameda County, Cal. (the Line). The Line totals approximately 4.3 miles and consists of five rail segments: (1) UP's Alameda Industrial Lead, from milepost 10.0 near Fruitvale to milepost 10.4 near Lincoln Jct.; (2) the Alameda Industrial Lead from milepost 16.0 near Mastic Jct. to milepost 18.2 near West Alameda; (3) the former South Pacific Coast Railway mainline from milepost 5.0 at West Alameda to milepost 6.1 at Pacific Jct.; (4) the connection between the Alameda Industrial Lead at milepost 18.0 and South Pacific Coast milepost 5.4 near West Alameda; and (5) track #7, the connection between the Alameda Belt Line near St. Charles Avenue and the Alameda Industrial Lead at its milepost 16.5 near Constitution Way. The Line also includes all other UP ancillary, industrial, switching, siding, and spur trackage on Alameda Island and traverses United States Postal Service Zip Codes 94501 and 94601.[1]

UP has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years and, therefore, there is no need to reroute any traffic; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

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[1] In its combined environmental and historic report, UP notes that because the Line was used in electric interurban service from 1911 to 1940, it appeared to have been reclassified by then-owner Southern Pacific Railroad and viewed as an unregulated switching spur. UP views the Line as potentially falling under STB jurisdiction and is seeking exempt abandonment authority to clarify the record with regard to the Line.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will become effective on July 20, 2016, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 30, 2016. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 11, 2016, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Jeremy M. Berman, 1400 Douglas St., #1580, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void ab initio.

UP has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by June 24, 2016. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by UP's filing of a notice of consummation by June 20, 2017, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at "*WWW.STB.DOT.GOV.*"

Decided: June 15, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. Contee,

Clearance Clerk.

[FR Doc. 2016–14469 Filed 6–17–16; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 290 (Sub-No. 5) (2016–3)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the third quarter 2016 Rail Cost Adjustment Factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter 2016 RCAF (Unadjusted) is 0.842. The third quarter 2016 RCAF (Adjusted) is 0.356. The third quarter 2016 RCAF–5 is 0.337.

DATES: *Effective Date:* July 1, 2016.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez, (202) 245–0333. Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on our Web site, *http://www.stb.dot.gov.* Copies of the decision may be purchased by contacting the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through FIRS at (800) 877–8339.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

By the Board, Chairman Elliott, Vice Chairman Miller, and Commisioner Begeman.

Decided: June 14, 2016.

Raina Contee,

Clearance Clerk.

[FR Doc. 2016–14508 Filed 6–17–16; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2016–71]

Petition for Exemption; Summary of Petition Received; Florida Air Transport Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 11, 2016.

ADDRESSES: Send comments identified by docket number FAA–2016–6698 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building, Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building, Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Alphonso Pendergrass, Federal Aviation Administration, 800 Independence Ave, SW., Washington DC 20591. email *Alphonso.pendergrass@faa.gov,* phone (202) 267–4713.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 10, 2016.

Dale Bouffiou,

Deputy Director, Office of Rulemaking.

Petition For Exemption

Docket No.: FAA–2016–6698.

Petitioner: Florida Air Transport.

Section(s) of 14 CFR Affected: §§ 125.287 and 125.291.

Description of Relief Sought: Florida Air Transport requests an exemption to permit an appropriately qualified and authorized National Designated Pilot Examiner (NDPER) to conduct pilot proficiency check rides when an FAA Inspector is unavailable to perform pilot proficiency check rides.

[FR Doc. 2016–14451 Filed 6–17–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2016–75]

Petition for Exemption; Summary of Petition Received; BOSH Precision Agriculture, LLC dba Digital Harvest

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 11, 2016.

ADDRESSES: Send comments identified by docket number FAA–2015–6746 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dan Ngo, (202) 267–4264, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 13, 2016.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2015–6746.

Petitioner: BOSH Precision Agriculture, LLC dba Digital Harvest.

Section(s) of 14 CFR Affected: 21 and 137, and 14 CFR 61.113(a), 91.7(a), 91.103, 91.109, 91.119, 91.121, 91.151(b), 91.405(a), 91.407(a)(1), 91.409(a)(2), 91.417(a)(b), and 91.1501.

Description of Relief Sought: The petitioner is requesting relief in order to operate the RMAX helicopter for agricultural uses (202 pounds, including payload).

[FR Doc. 2016–14452 Filed 6–17–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2016–76]

Petition for Exemption; Summary of Petition Received; Cable News Network CNN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 11, 2016.

ADDRESSES: Send comments identified by docket number FAA–2015–1851 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dan Ngo, (202) 267–4264, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 13, 2016.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2015–1851.

Petitioner: Cable News Network CNN.

Section(s) of 14 CFR Affected: § 91.119(b)(c).

Description of Relief Sought: The petitioner is requesting relief in order to modify the requirements for submitting a written Plan of Activities to the local FSDO prior to closed-set filming. The petitioner is also requesting to be able to fly the Fotokite Pro in congested areas and closer than 500 feet to non-participating persons, vessels, vehicles, and structures.

[FR Doc. 2016–14453 Filed 6–17–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities; Proposed Information Collection; Submission for OMB Review; Description: Risk Management Guidance for Higher Loan-to-Value Lending Programs in Communities Targeted for Revitalization

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and Federal agencies to take this opportunity to comment on a new information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting PRA-related comment concerning a new information collection titled, "Description: Risk Management Guidance for Higher Loan-to-Value Lending Programs in Communities Targeted for Revitalization" (bulletin).

DATES: You should submit written comments by July 20, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–NEW, 400 7th Street SW., Suite 3E–218, mail stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700, or for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–NEW, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503, or by email to: *oira submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, or for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Description: Risk Management Guidance for Higher Loan-to-Value Lending Programs in Communities Targeted for Revitalization.

OMB Control No.: 1557–NEW.

Type of Review: Regular.

Abstract: Under the proposed bulletin, national banks and federal savings associations wishing to establish a program for originating certain owner-occupied residential mortgage loans where the loan-to-value (LTV) ratio at origination exceeds 100 percent in communities targeted for revitalization should have policies and procedures approved by their Board of Directors (Board), or an appropriately designated committee, that address the loan portfolio management, underwriting, and other relevant considerations for such loans. The bulletin advises that banks also should notify the appropriate OCC supervisory office in writing at least 30 days prior to the date the bank intends to begin originating residential loans pursuant to an approved program or implementing any substantive change to a previously submitted program and provide a copy of the approved policies and procedures to the OCC supervisory office.

Affected Public: Businesses or other for-profit.

Burden Estimates: Estimated Number of Respondents: 20.

Estimated Burden per Respondent for the First Year: Drafting Policies—200 hours; Documentation—10 hours per quarter (*i.e.,* 40 hours); Reporting—10 hours.

Total Estimated Annual Burden: 5,000 hours.

Frequency of Response: On occasion.

The OCC issued a 60-day **Federal Register** notice regarding the collection on December 24, 2015, 80 FR 80458. The OCC received five comment letters on the information collection requirements contained in the bulletin, one from a group of three trade associations, two from community advocacy and homeownership non-profit organizations, one from a non-profit research and policy organization, and one from an individual.

The trade associations believed that the required processes explained in the proposed bulletin would be disproportionately burdensome for a *de minimus* volume of activity and that it would be impractical and unnecessary for banks to get board or committee approval of detailed policies in addition to quarterly reporting.

The OCC notes that existing regulations and guidelines permit an institution to make loans in excess of the supervisory loan-to-value (SLTV) ratio on an individual basis under specified conditions. The OCC is revising the bulletin to clarify that it applies to residential mortgage loans where the LTV ratio at origination exceeds 100 percent. Accordingly, some loans that exceed the SLTV ratio will be outside the scope of the bulletin. Additionally, the OCC is amending the bulletin to clarify that approval of the program policies and procedures should be by the board or "appropriately designated committee."

The trade associations stated that the information currently provided to banks' internal risk management structures should be sufficient to oversee this lending. The commenters asserted that the reporting requirements should provide OCC with sufficient data to track performance without requiring banks to make data system changes that would be time-consuming and not cost-effective.

The OCC does not intend that banks will be required to change their data systems in order to offer a program under the bulletin. In describing the supervision of individual banks, the draft bulletin referred to consideration of "bank's internal reporting." After considering the comments suggesting concern about the OCC's anticipated data needs, the OCC has revised the bulletin to reiterate its intent to rely on bank-maintained data and to clarify that the supervisory focus will be on information about program performance and trends.

The trade association commenters also stated that excessive burdensome requirements undermine the goal of the proposed bulletin, which is to support bank efforts to make loans with LTVs greater than 90% in communities targeted for revitalization. They requested clarification that the OCC's annual review is of the overall guidance set forth in the proposed bulletin, not individual bank programs. They believe the OCC should rely on regular exam cycles to determine the program's continued viability and not subject the participating banks to another layer of supervision.

As noted above, the OCC is revising the bulletin to clarify that it applies to residential mortgage loans where the LTV ratio at origination exceeds 100 percent. In response to comments suggesting confusion about the annual review, the OCC revised the bulletin to clarify that the overall evaluation of programs that will occur at least annually will focus on banks' programs as a whole. Finally, the OCC is revising the bulletin to clarify that for the supervision of individual banks, examiners will monitor and evaluate a program offered by a bank during scheduled supervisory activities, which should not add an additional layer of supervision.

Finally, one non-profit community advocacy group explained that through its experience working with financial institutions, clients, and community development organizations, it has determined that the burden of implementing this policy would be minimal. They suggested that if the OCC's policy contained in the draft bulletin avoids the unintended consequences of harming portfolio lending,[1] then there would be no burdens associated with this action.

A second non-profit community advocacy group noted the processes to be developed by the banks to facilitate the goals of the draft bulletin should make the analysis/approval processes of the institutions' policies commensurate with the risk of the mortgages and the small volume of lending likely to take place in each individual institution.

The non-profit research and policy organization believed that the proposed collection of information is necessary for the proper performance of the functions of the OCC and that the information has practical utility.

The individual commenter stated that the collection of information has no practical utility in terms of supporting long-term community revitalization because it sets new, unjustified constraints on lending that contravene the White House-led Neighborhood Revitalization strategy.

The OCC believes that the bulletin encourages responsible, innovative lending and strikes an appropriate balance between the desire to encourage mortgage financing in distressed communities and the risks such financing may present to banks and mortgage loan borrowers. The programs contemplated by the bulletin offer market-based solutions by private lenders, and, therefore, should not contravene the White House's Neighborhood Revitalization Initiative, which involves federal programs.

Comments continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility; (b) The accuracy of the OCC's estimate of the information collection burden; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; (d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Guidance: The text of the guidance[2] is as follows:

Description: Risk Management Guidance for Higher Loan-to-Value Lending Programs in Communities Targeted for Revitalization

Summary

The Office of the Comptroller of the Currency (OCC) supports efforts by national banks and federal savings associations (collectively, banks) to assist in the revitalization, stabilization, or redevelopment (referred to in this bulletin individually and collectively as revitalization) of distressed communities through responsible residential mortgage lending. The OCC recognizes that banks and other parties have expressed concern that depressed housing values in certain distressed communities in the United States inhibit mortgage lending in these communities. One way in which banks can support revitalization efforts in distressed communities is by offering mortgage products for the purchase of, or the purchase and rehabilitation of, one- to four-unit residential properties. This bulletin provides guidance for managing risks associated with programs in which residential mortgage loans are originated where the loan-to-value ratio (LTV) at origination exceeds 100 percent (referred to in this bulletin as higher LTV loans).

Note for Community Banks

This guidance applies to all OCC-supervised banks wishing to establish a program for originating higher LTV loans in communities targeted for revitalization. The guidance may offer an opportunity for community-focused banks to develop collaborative relationships with one another. Any such arrangements should be consistent with the OCC's paper entitled "An Opportunity for Community Banks: Working Together Collaboratively" that the OCC issued on January 13, 2015.[3] As noted in the paper, banks should take care to ensure that any collaboration with third parties is subject to effective strategic planning, risk management, and oversight.

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[1] Portfolio lending is lending retained for the lender's own investment purposes.

[2] The OCC plans to issue this guidance in the form of a bulletin directed to national banks and federal savings associations.

[3] Refer to OCC NR 2015–1 "Collaboration Can Facilitate Community Bank Competitiveness, OCC Says."

Highlights

This bulletin provides guidance regarding the

- circumstances under which banks may establish programs to originate certain higher LTV loans.
- OCC's supervisory considerations regarding such programs.

As described in this bulletin, the OCC will actively monitor and evaluate the programs established by banks, including the performance of higher LTV loans. Additionally, at least annually, the OCC will assess the extent to which banks' collective programs are contributing to the revitalization of eligible communities and whether banks are adequately controlling the risks associated with originating higher LTV loans.

Background

Home values in some U.S. communities remain depressed, in part as a result of the financial crisis. These depressed home values contribute to financing difficulties being experienced by creditworthy borrowers seeking home loans in those communities.

As these communities work to stabilize home ownership levels and home values, the rehabilitation of abandoned or distressed housing stock is an important component of broader efforts to strengthen communities. Local governments, government-affiliated entities, community-based organizations, financial institutions (including banks), and others have developed creative solutions for some of these challenges. These solutions include strategies for acquiring and rehabilitating properties in communities targeted for revitalization. Community groups, financial institutions (including banks), non-profit organizations, and state and local entities, including land banks, are working together to develop and implement innovative residential mortgage financing to bring needed lending to economically distressed areas. The efforts include providing second-lien loans to finance rehabilitation costs, interest-rate discounts, and down payment and closing cost assistance. Additionally, the Federal Housing Administration, Fannie Mae, and Freddie Mac all currently offer rehabilitation financing.[4]

In addition to participating in these and other third-party efforts, banks have expressed a desire to participate in revitalization efforts of distressed communities by offering their own loan products. The value of the collateral in communities where home values remain depressed often can present challenges to banks' residential lending in part because of current supervisory loan-to-value (SLTV) limits. These SLTV limits generally provide that owner-occupied residential loans with LTVs above 90 percent should have appropriate credit enhancement (*e.g.*, mortgage insurance or readily marketable collateral). Distressed sales, including short sales and foreclosures, have negatively affected home values in these communities. Further, in communities with minimal sales activity, finding comparable property sales becomes challenging when appraisals or evaluations are required. All of these factors contribute to buyers of distressed properties experiencing difficulty securing adequate financing to cover the often substantial renovation costs required to make the properties habitable.

The OCC recognizes that supporting long-term community revitalization may necessitate responsible, innovative lending strategies. One way in which banks can support revitalization efforts is through lending within established exceptions to the SLTV limits for residential loans. Existing regulations and guidelines already recognize that it may be appropriate, in individual cases, for banks to make loans in excess of the SLTV limits, based on support provided by other credit factors.[5] The regulations and guidelines also recognize that banks may provide for prudently underwritten exceptions for creditworthy borrowers whose needs do not fit within the banks' general lending policies, including SLTV limits, on a loan-by-loan basis under certain conditions.[6] These conditions include that the aggregate amount of all loans in excess of the SLTV limits (which includes higher LTV loans) should not exceed 100 percent of total capital, that the boards of directors establish standards for reviewing and approving exception loans, and that written justification setting forth relevant credit factors accompany all approvals of exception loans.[7] Credit factors for these purposes may include the borrower's capacity to adequately service the debt, the borrower's overall creditworthiness, and the level of funds invested in the property.[8]

The OCC believes that in some circumstances, a bank also can design a *program* to offer higher LTV loans in communities targeted for revitalization in a manner consistent with safe and sound lending practices and current regulations and guidelines. As described in the "Program Criteria" section of this bulletin, such loans may include loans in eligible communities originated in accordance with the bank program's policies and procedures. Important elements of such a program are the bank's policies and procedures for complying with the ability-to-repay standard of Regulation Z[9] and the bank's separate underwriting standards and approval processes for higher LTV loans.

Bank lending under such a program may serve the credit needs of individual borrowers and the community, and the bank may receive Community Reinvestment Act consideration depending on the specifics of the program. The origination of higher LTV loans is not, however, without risk. Using internal bank data, the OCC will monitor and evaluate the performance of a bank's program loans and how a bank's program manages both risks to the bank and its borrowers. For its aggregate assessment, which will occur at least annually, the OCC will evaluate the collective impact of programs offered by all banks in eligible communities. In assessing the impact of one or more programs in eligible communities, the OCC recognizes that revitalization efforts may be a multi-year undertaking.

I. Program Criteria

A. Program Loan

The proceeds of a program loan should be used to finance the purchase of,[10] or purchase and rehabilitation of, an owner-occupied residential property located in an eligible community. A program loan should be a permanent first-lien mortgage with an LTV ratio at the time of origination that exceeds 100 percent, without mortgage insurance, readily marketable collateral, or other acceptable collateral. A program loan also should have an original loan balance of $200,000 or less and be originated under a program developed pursuant to this bulletin.

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[4] Programs include the Federal Housing Administration's Limited 203(k) Rehabilitation Mortgage Insurance Program, Fannie Mae HomeStyle Renovation, and Freddie Mac Construction Conversion and Renovation Mortgages.

[5] For national banks, refer to 12 CFR 34, appendix A to subpart D, "Interagency Guidelines for Real Estate Lending Policies." For federal savings associations, refer to 12 CFR 160.101, appendix to 12 CFR 160.101, "Interagency Guidelines for Real Estate Lending Policies."

[6] Id.

[7] Id.

[8] Id.

[9] The Dodd-Frank Wall Street Reform and Consumer Protection Act amended the Truth in Lending Act to require creditors to make a reasonable, good faith determination of a consumer's ability to repay a mortgage loan, absent specified exceptions. Refer to 15 U.S.C. 1639c. The Consumer Financial Protection Bureau issued a final rule amending Regulation Z to implement these ability-to-repay requirements, which became effective January 1, 2014. Refer to 78 FR 6621, January 30, 2013.

[10] An example is the purchase of a recently rehabilitated property.

For purposes of this bulletin

- "rehabilitation" means the repairs necessary to improve a property in substandard condition to a level consistent with applicable building codes. A property is in "substandard condition" when its present condition endangers the health, safety, or well-being of the occupant(s) such that it requires extensive repair for the property to be habitable.
- a "purchase and rehabilitation" loan includes a loan that finances
  —the purchase of the property, plus the projected rehabilitation costs; or
  —the amount of a purchase consummated not more than six months before the date of the bank's loan commitment, plus the projected rehabilitation costs.

Program loans do not include home equity loans, lines of credit, or refinancing loans.

B. Eligible Community

An eligible community should be one that has been officially targeted for revitalization by a federal, state, or municipal governmental entity or agency, or by a government-designated entity such as a land bank.

C. Program Policies and Procedures

Existing regulations and guidelines require that each bank adopt and maintain a general lending policy that establishes appropriate limits and standards for extensions of credit that are secured by liens on or interests in real estate or that finance building construction or other improvements.[11] In addition to the general lending policies developed pursuant to existing regulations and guidelines, banks should have specific policies and procedures for program loans that are approved by the board of directors, or an appropriately designated committee, and that address loan portfolio management, underwriting, and other relevant considerations. These policies and procedures should include provisions that address the

- defined geographies of an eligible community where the bank will consider making program loans[12] and describe how the program loans are intended to support revitalization efforts in the eligible community (*e.g.,* how the origination of program loans is expected to contribute to the normalization of a distressed housing market).
- amount, and the duration, of the bank's financial commitment to the program.
- limitation on the aggregate level of committed program loans as a percentage of tier 1 capital (as defined in 12 CFR 3.2), which should not exceed 10 percent.
- characteristics of program loans, including loan structure, credit terms, interest rate and fees, and maximum loan size, which should not exceed $200,000.
- underwriting standards and approval processes for program loans, including appropriate documentation of relevant credit factors and document retention standards.
- real estate appraisal and evaluation criteria applicable to program loans.[13]
- credit administration requirements for program loans, including detailed guidelines regarding oversight of the rehabilitation process, such as controls over contracts, disbursements, inspections, and project management.
- compliance with all applicable laws and regulations, including the ability-to-repay and other requirements of 12 CFR 1026, anti-discrimination laws, and section 5 of the Federal Trade Commission Act.
- content, form, and timing of notice(s) the bank will provide in connection with program loans to clearly inform the borrower that
  —the market value of a property securing a higher LTV loan is less than the loan amount at origination.
  —the market value of a rehabilitated property likely will be less than the original loan amount upon completion of the rehabilitation.
  —the market value may continue to be less than the original loan amount thereafter and for the duration of the loan.
  —there may be financial implications to the borrower if the borrower seeks to sell the property after rehabilitation and the sale price of such rehabilitated property is less than the outstanding loan balance at the time of such sale, and explain the implications.
- incentives that may be available to qualifying borrowers (*e.g.,* assistance or grants for down payments, fees, and closing costs; at or below market interest rates; or rewards for long-term occupancy) and home buyer education or other counseling that may be provided by or through the bank or its third-party partners.
- monitoring and internal reporting requirements sufficient to: (1) Assess program performance and trends; and (2) inform the board, or appropriately designated committee, on at least a quarterly basis of the aggregate dollar amount, and percentage of tier 1 capital, of committed program loans in relation to the program limitations.

D. Notice to the OCC

The bank should notify the appropriate OCC supervisory office in writing at least 30 days before the bank intends to begin originating program loans or to make any substantive change to a previously submitted program. Substantive changes may include the addition of a new eligible community, an increase in the financial commitment or duration of a program, or material changes to program loan characteristics or underwriting standards. Such notice should include

- the date the bank's board (or appropriately designated committee) approved the program policies and procedures.
- a copy of the program policies and procedures.

II. OCC Supervisory Considerations

A. Supervision of Individual Banks

After receiving the bank's notice to the OCC, examiners will evaluate the bank's program to assess whether it is consistent with safe and sound lending practices and the guidelines outlined in this bulletin. Examiners' assessment will include reviewing the

- characteristics of program loans and incentives, if available, to qualifying borrowers.
- standards for the underwriting, collateral review, credit administration, and approval of program loans.
- borrower notice(s).
- monitoring and reporting procedures for program loans.
- process for ensuring compliance with all applicable laws and regulations.

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[11] For national banks, refer to 12 CFR 34, "Real Estate Lending and Appraisals," appendix A to subpart D, "Interagency Guidelines for Real Estate Lending Policies." For federal savings associations, refer to 12 CFR 160.101, "Real estate lending standards," appendix to 12 CFR 160.101, "Interagency Guidelines for Real Estate Lending Policies."

[12] Banks should retain documentation indicating: (1) The eligible community is one targeted for revitalization by a government entity or agency; (2) the specific revitalization criteria used by the government entity or agency; and (3) the type of financing and other support, if any, that the governmental entity or agency provides to the community.

[13] For all mortgage loan transactions based on an appraisal, banks should select and engage appraisers with local market competency in valuing the property securing a program loan. Similarly, any evaluation, if applicable, should be credible and consistent with safe and sound banking practices. Given the unique underwriting considerations, banks should not use automated valuation models in connection with these programs.

- financial commitment (as a dollar amount and a percentage of tier 1 capital) and defined geographies for originating program loans.

In connection with the evaluation of the bank's program, examiners may request clarification or changes to the bank's policies and procedures before the bank's first origination of a program loan or the bank's making of any substantive change to a previously submitted program. Such requests may include clarification or changes to ensure the program is consistent with safe and sound lending practices.

Examiners also will monitor and evaluate the bank's program during scheduled supervisory activities. Examiner evaluations will include consideration of the

- bank's governance of the program and whether the program adequately manages the various risks.
- performance of program loans and whether delinquent program loans are managed and accurately classified consistent with the OCC's existing guidance on delinquent loans and in compliance with applicable laws pertaining to loans in delinquency.[14]
- bank's internal reporting of program performance and trends.
- process to establish and document community development consideration, if applicable, under the Community Reinvestment Act.

Banks with programs that are found to have unsatisfactory governance or controls will be expected to undertake corrective action in order to continue the lending activity in a safe and sound manner. In addition, examiners may review individual program loans to assess asset quality, credit risk, and consumer compliance.

B. Overall Evaluation of Programs

At least annually, the OCC will evaluate the extent to which banks' programs on the whole are contributing to the revitalization efforts in eligible communities. The OCC's evaluations will consider, among other matters, the effect such programs have had on the housing markets and other economic indicators in eligible communities targeted by the programs, whether the programs adequately control the various risks, and the general performance of program loans. The OCC recognizes that it may take multiple years before revitalization efforts in eligible communities result in material changes.

Based on these evaluations, the OCC may amend or rescind this bulletin. Any decision by the OCC to materially amend or rescind this bulletin will apply only to the origination of new higher LTV loans. Any loans originated that are consistent with this bulletin, or any subsequent revisions thereof, when made will not be deemed to be unsafe and unsound solely because of any measurable amendment or rescission of this bulletin.

Dated: June 14, 2016.

Stuart E. Feldstein,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 2016–14472 Filed 6–17–16; 8:45 am]

BILLING CODE 4810–33–P

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[14] Applicable laws may include (1) Regulation X, 12 CFR 1024, which provides mortgage servicing standards, including early intervention requirements and loss mitigation procedures and (2) Regulation Z, 12 CFR 1026, which establishes requirements for including delinquency-related information on the periodic statements required for residential mortgage loans.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

FEDERAL REGISTER

Vol. 81 Monday,
No. 118 June 20, 2016

Part II

Department of Homeland Security

Coast Guard

46 CFR Parts 1, 2, 15, et al.
Inspection of Towing Vessels; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 1, 2, 15, 136, 137, 138, 139, 140, 141, 142, 143, 144, and 199

[Docket No. USCG–2006–24412]

RIN 1625–AB06

Inspection of Towing Vessels

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing safety regulations governing the inspection, standards, and safety management systems of towing vessels. We are taking this action because the Coast Guard and Maritime Transportation Act of 2004 reclassified towing vessels as vessels subject to inspection and authorized the Secretary of the Department of Homeland Security to establish requirements for a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels. This rule, which includes provisions covering specific electrical and machinery requirements for new and existing towing vessels, the use and approval of third-party organizations, and procedures for obtaining Certificates of Inspection, will become effective July 20, 2016. However, certain existing towing vessels subject to this rule will have an additional 2 years before having to comply with most of its requirements.

DATES: This final rule is effective July 20, 2016. The incorporation by reference of certain publications listed in the final rule is approved by the Director of the Federal Register on July 20, 2016.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2006–24412 and are available on the Internet by going to *http://www.regulations.gov,* inserting USCG–2006–24412 in the "Keyword" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call LCDR William Nabach, Project Manager, CG–OES–2, Coast Guard, telephone 202–372–1386.

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

2004 Act	Coast Guard and Maritime Transportation Act of 2004
2010 Act	Coast Guard Authorization Act of 2010
2012 Act	Coast Guard and Maritime Transportation Act of 2012
ABS	American Bureau of Shipping
ABSG	American Bureau of Shipping Group
ABYC	American Boat and Yacht Council
AED	Automatic External Defibrillator
ANSI	American National Standards Institute
AWO	American Waterways Operators
BLS	Bureau of Labor Statistics
CEMS	Crew Endurance Management System
COI	Certificate of Inspection
COTP	Captain of the Port
DHS	Department of Homeland Security
EPIRB	Emergency Position Indicating Radio Beacon
FAST	Fatigue Avoidance Scheduling Tool
FR	Federal Register
FRFA	Final regulatory flexibility assessment
gpm	gallons per minute
GRT	Gross register tons
HIPAA	Health Insurance Portability and Accountability Act of 1996
HOS	Hours of Service
IMO	International Maritime Organization
IRFA	Initial regulatory flexibility analysis
ISM	International Safety Management
ISO	International Organization for Standardization
kPa	Kilopascals
LBP	Length Between Perpendiculars
LCG	Longitudinal Center of Gravity
LORAN	Long Range Aid to Navigation
lpm	liters per minute
MISLE	Marine Information for Safety and Law Enforcement
MMC	Merchant Mariner Credential
MOU	Memorandum of Understanding
MTSA	Maritime Transportation Security Act of 2002
NAMS	National Association of Marine Surveyors
NARA	National Archives and Records Administration
NEC	National Electrical Code
NICET	National Institute for Certification in Engineering Technologies
NFPA	National Fire Protection Association
NPRM	Notice of Proposed Rulemaking
NRTL	Nationally Recognized Testing Laboratory
NTSB	National Transportation Safety Board
NVIC	Navigation and Vessel Inspection Circular
OCMI	Officer in Charge, Marine Inspection
OIRA	Office of Information and Regulatory Affairs
OMB	Office of Management and Budget
OSHA	Occupational Safety and Health Administration
P.E.	Professional Engineer
PFD	Personal Flotation Device
PIC	Person in charge
PPE	Personal Protective Equipment
psi	pounds per square inch
RFA	Regulatory Flexibility Act
§	Section
SAE	Society of Automotive Engineers
SAMS	Society of Accredited Marine Surveyors
SMS	Safety Management System
SBA	Small Business Administration
SOLAS	International Convention for the Safety of Life at Sea, 1974, as amended
STCW	Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to Domestic Endorsements
TPO	Third-party organization
TSAC	Towing Safety Advisory Committee
TSMS	Towing Safety Management System
TVR	Towing vessel record
U.S.C.	United States Code
UWILD	Underwater inspection in lieu of drydocking
VCG	Vertical Center of Gravity
VHF	Very High Frequency
VSL	Value of a statistical life
VTS	Vessel Traffic Service

II. Executive Summary

A. Purpose and Authority

In 2004, Congress reclassified towing vessels as vessels subject to inspection under part B of subtitle II of title 46, United States Code (U.S.C.), and authorized the Secretary of Homeland Security to establish requirements for the inspection of towing vessels, their possible use of safety management systems (SMS) and hours of service requirements for them. The legislative history, which pointed to the need for a "full safety inspection of towing vessels," references two towing vessel incidents involving a total of 19 deaths. In September 2001, a towing vessel struck a bridge at South Padre Island, TX. The bridge collapsed, and 5 people died when their cars or trucks went into the water. On May 26, 2002, a towing vessel struck the I–40 highway bridge over the Arkansas River at Webber Falls, OK. The bridge collapsed, and 14 people died when their cars or trucks went into the Arkansas River. 150 Cong. Rec. H6469–01, 2004 WL 1630278; and H.R. Conf. Rep. 108–617, 2004 U.S.C.C.A.N. 936, 951.

This final rule implements most provisions of the Notice of Proposed Rulemaking (NPRM)(76 FR 49976, Aug. 11, 2011) as proposed, but makes changes to address concerns of the public and industry expressed in comments, as is explained below. This rule is authorized and made necessary by the Coast Guard and Maritime Transportation Act of 2004 (2004 Act), Public Law 108–293, 118 Stat. 1028 (Aug. 9, 2004), which made towing vessels subject to inspection. Six years later, the Coast Guard Authorization Act of 2010 (2010 Act), Public Law 111–281, 124 Stat. 2905 (Oct. 15, 2010), directed the Secretary to issue a notice of proposed rulemaking and a final rule.

B. Overview of Rule

This rule creates a comprehensive safety system that includes company compliance, vessel compliance, vessel standards, and oversight in a new Code of Federal Regulations (CFR) subchapter dedicated to towing vessels. This rule, which (with exceptions) generally applies to all U.S.-flag towing vessels 26 feet or more, and those less than 26 feet moving a barge carrying oil or hazardous material in bulk, lays out both inspection mechanisms as well as new equipment, construction, and operational requirements for towing vessels.

To provide flexibility, vessel operators will have the choice of two inspection regimes. Under the Towing Safety Management System (TSMS) option, routine inspections of towing vessels will primarily be performed by third-party organizations (TPOs), including certain classification societies, and this rule creates a framework for oversight and audits of such TPOs by the Coast Guard. The TSMS will provide those operators with the flexibility to tailor their safety management system to their own needs, while still ensuring an overall level of safety acceptable to the Coast Guard. Alternatively, under the Coast Guard inspection option, routine inspections would be conducted by the Coast Guard, providing an option for those operators who choose not to develop and implement their own TSMS.

The rule also creates many new requirements for design, construction, equipment, and operation of towing vessels. Those requirements are typically based on industry consensus standards or existing Coast Guard requirements for similar vessels. To develop these requirements for towing vessels, the Coast Guard started by publishing a notice in 2004 (69 FR 78471) that asked questions and announced public meetings to seek guidance in implementing the 2004 Act provisions. We also worked with the Towing Safety Advisory Committee (TSAC), industry groups, and a contractor (ABSG Consulting—tasked with providing an industry analysis) to better gauge how to proceed with this rulemaking. We evaluated existing requirements for towing vessels (contained primarily in 46 CFR part 27 and subchapter I) to determine whether they were adequate for towing vessels and meet the intent of the 2004 Act. As discussed in greater detail below, the safety requirements in this final rule align with industry consensus standards, and we consider it very likely that most towing vessels already comply with most of them.

We made several changes to our proposal in the NPRM. We have clarified the system for Coast Guard oversight and inspection of towing vessels that complements the TPO system the Coast Guard proposed. To address concerns about the cost impact of the rule, we have added "grandfathering" provisions to several requirements, so the requirements will not apply to existing vessels or vessels whose construction began before the effective date of the rule. We also reorganized several parts for greater clarity or to better align with the existing text of other parts of the CFR. Finally, as we noted in the NPRM (76 FR 49985), we still plan to promulgate a separate rulemaking for an annual inspection fee for towing vessels that will reflect the specific program costs associated with the TSMS and Coast Guard inspection options. Until then we are establishing the existing fee of $1,030 in 46 CFR 2.10–101 for any inspected vessel not listed in Table 2.10–101 as the annual inspection fee for towing vessels subject to subchapter M. As reflected in 46 CFR 2.10–1(b), this fee would not be charged for a vessel being inspected for the initial issuance of a COI, but the fee would be charged annually starting a year later.

C. Costs and Benefits

This rule will affect approximately 5,509 U.S. flag towing vessels engaged in pushing, pulling, or hauling alongside, and the 1,096 companies that own or operate them. Towing vessels not covered by this rule include towing vessels inspected under subchapter I, work boats, and recreational vessel towing vessels.

The estimate for total industry and net government costs is $41.5 million annualized at a 7 percent discount rate over a 10-year period of analysis. The estimate for monetized benefits is $46.4 million annualized at a 7 percent discount rate, based on the mitigation of risks from towing vessel accidents in terms of lives lost, injuries, oil spilled, and property damage.

Subtracting the annualized monetized costs from the annualized monetized benefits yields a net benefit of $4.9 million. We also identified, but did not monetize, other benefits from reducing the risk of accidents that have secondary consequences of delays and congestions on waterways, highways, and railroads.

III. Regulatory History

A. Statutory Background

The Coast Guard and Maritime Transportation Act of 2004 (2004 Act), Public Law 108–293, 118 Stat. 1028 (Aug. 9, 2004), established new authorities for towing vessels as follows:

The 2004 Act added "towing vessels" as a class of vessels that are subject to safety inspections. See section 415 of the 2004 Act, which amended section 3301 of title 46 of the U.S.C. (46 U.S.C. 3301). The term "towing vessel" was already defined in 46 U.S.C. 2101, and the scope and standards of safety inspections are laid out in 46 U.S.C. 3305.

The 2004 Act also authorized the Secretary of Homeland Security to establish, by regulation, a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels.

See Section 415 of the 2004 Act, which amended 46 U.S.C. 3306(j).

B. Regulatory Background

On December 30, 2004, the Coast Guard published a request for comments and notice of public meetings titled "Inspection of Towing Vessels" in the **Federal Register** (69 FR 78471). The notice asked seven questions regarding how the Coast Guard should move forward with the rulemaking to implement the statutory provisions from the 2004 Act, listed above in section III.A. "Statutory background." The Coast Guard then held four public meetings, one each in Washington, DC; Oakland, CA; New Orleans, LA; and St. Louis, MO. In addition to the comments the Coast Guard received at the public meetings, there were 117 comments submitted to the docket, which can be found in docket USCG–2004–19977 at *http://www.regulations.gov*. The Coast Guard used the public input received to inform its development of the NPRM.

On August 11, 2011, the Coast Guard published an NPRM titled "Inspection of Towing Vessels" in the **Federal Register** (76 FR 49976). The Coast Guard then held four public meetings, one each in Newport News, VA; New Orleans, LA; St. Louis, MO; and Seattle, WA. The comment period was open until December 9, 2011. We received and considered a combined total of more than 3,000 comments from more than 265 written submissions and oral statements from 105 persons at public meetings.

IV. Discussion of Comments and Changes

A. General Feedback on the NPRM

For clarity, the following discussion of comments is sorted by topic, which primarily corresponds to parts of the CFR as noted in the Table of Contents.

Parts 1 and 2 are in title 46 CFR subchapter A, part 15 is in subchapter B, part 199 is in subchapter W, and all other parts are in the newly created subchapter M. Where changes in response to a comment led to changes outside the designated section or part, we have noted it in the text. Within each topic of the rule, comments have been addressed in order of the section they applied to. When public submissions addressed multiple sections of the proposed rule or it wasn't clear what specific sections they addressed, we responded to their comments in the section that seemed most appropriate. In addition, we have made numerous changes through the regulatory text that are entirely non-substantive and editorial in nature; for example, changing "chapter" to "Chapter" or "onboard" to "on board" in certain contexts to better conform to standard usage.

We received several comments in general support of the proposed inspection regime, design standards, and SMS requirements for towing vessels. Individuals and maritime companies felt that the proposed regulation would serve to improve the safety, security, and environmental protection of towing vessel operations.

We also received several comments from individuals and maritime companies that generally opposed the proposed regulation. Some commenters expressed concern that the elements of the proposed rule would impose added cost burdens on business, which might lead to termination of positions.

The Coast Guard acknowledges these comments and concerns. However, we do not expect towing companies and businesses to eliminate positions or downsize as a result of this rulemaking. See the Regulatory Analysis for our discussion of this issue.

One comment agreed with the American Bureau of Shipping Group's (ABSG's) recommendation that a traditional, inspected vessel option be offered as an alternative for those companies that did not maintain documentation of policies and procedures, and for those smaller companies who would not be able to implement a SMS. As we noted in the NPRM (76 FR 49978), we contracted with ABSG Consulting in 2006 for assistance with gathering data and categorizing the vessels that make up the towing industry; see their report, which also contains recommendations, in the docket, USCG–2006–24412–0017.

We concur with the commenter and the cited ABSG recommendation. As an alternative to a TSMS, the proposed rule included the option of a Coast Guard inspection regime. We have kept both of these options in this final rule.

Citing an 80-page NPRM, more than 2,000 pages of supporting documentation, and a short comment period, one commenter requested an extension of the comment period so smaller operators can review how the proposed requirements would impact their businesses. The Coast Guard did not grant this request; we provided a 120-day comment period, which is longer than our standard 90-day comment period, and also held four public meetings in that time. We believe there was sufficient opportunity to comment on the NPRM.

B. Background and Need for Regulation

We received one comment noting that the 2010 Act no longer exempted towing vessels of less than 200 tons engaged in exploiting offshore minerals or oil from 46 U.S.C. 8904 and regulations promulgated under that authority, and therefore § 15.535(b) should be revised. See section 606 of that Act. We agree with the commenter that the exemption is no longer valid and so we adopted the commenter's requested amendment to § 15.535.

We received comments from several commenters who supported the work conducted by TSAC working groups. For NPRM discussion of work by these groups, see 76 FR 49978. Other commenters commended the Coast Guard's efforts in incorporating suggestions provided by TSAC. One commenter explained that a quote in the preamble, regarding the devastating impact that a TSMS can have on smaller companies, was incorrectly attributed to the TSAC Economic Analysis Working Group.

The commenter, a trade association, went on to explain that according to the experience of its members, TSMSs have had a positive impact on the safety performance and success of many small companies.

As we have previously noted, we greatly appreciate TSAC's contributions to the development of the NPRM. The quote we attributed to the TSAC Economic Working Group regarding the devastating impact that a TSMS requirement can have on smaller companies was taken from an earlier version of the working group's report; the quote should have read "To conduct internal audits on a large fleet, this may mean hiring a full-time staff, including salary, training and travel costs. While large companies will spend more to implement and maintain a SMS, however, the costs to a small company may be more difficult to absorb." See page 4 of the TSAC Economic Analysis Working Group Report, Dec. 16, 2008, document USCG–2006–24412–0007 in the docket. We are not surprised by the statement that TSMSs have had a positive impact on the safety performance and success of safety operators; we included TSMS as an option because we believe TSMSs will provide a positive impact on the safe operation of towing vessels. For data supporting this assessment, see the Regulatory Analysis for this final rule in the docket.

One commenter recommended that rather than writing a costly new set of regulations, the Coast Guard should give consideration to consolidating the rules already in place. The commenter recalled a voluntary program from a 2009 "United States Coast Guard Requirements for Uninspected Towing Vessels" document that issued stickers to vessels that had been reviewed for compliance with current regulations.

The Coast Guard established the voluntary Towing Vessel Bridging Program in 2009 to ease the transition of towing vessels going from a status of uninspected to inspected, and to ensure that both the Coast Guard and the towing vessel industry are informed and prepared to meet requirements coming from this Inspection of Towing Vessels rulemaking. As we noted in the NPRM, the Coast Guard considered existing regulations but decided the standards or regulations found in other vessel inspection subchapters were not appropriate and did not fulfill the intent of the 2004 Act. (76 FR 49987, Aug. 11, 2011.) The unique nature of the towing industry and towing operations warrants the development of new standards and regulations that pertain exclusively to towing vessels. In addition to the TSMS, this final rule contains other towing vessel-specific provisions, including expansion of the use of TPOs as part of the Coast Guard's TSMS-based, towing vessel inspection for certification regime. The Towing Vessel Bridging Program is a transition program based on voluntary compliance; it is not a substitute for a comprehensive regulatory regime that addresses and enforces safety requirements for towing vessels that Congress envisioned when it added towing vessels to the list of vessels subject to inspection.

We received comments from individuals and maritime companies who disagreed with the need for the proposed regulations, either because lack of vessel regulations were not the cause of the problem or the proposed regulations were not risk-based. Three commenters noted that some casualties occur because of human error, not from a lack of regulation. One individual felt that the Mississippi River accident in 2008 was not a good example in support of additional regulation, because the accident was caused by irresponsible behavior of the pilot.

The Coast Guard recognizes that human error is the cause of some casualties and that no amount of regulations will eliminate human error. To the extent we are able, however, we have attempted to adopt regulations that help ensure the safe operation of towing vessels, including some regulations intended to address factors related to human error. A fully functional safety management system, such as a TSMS, is continuously updated and evolving based on the non-conformities observed and the lessons learned as a result of reviewing incidents—including those related to human error. The TSMS option should help ensure that towing vessels are operated more safely and in full compliance with the TSMS and regulations in subchapter M. The Coast Guard inspection option may provide less frequent feedback to vessel operators and crew, but it too is intended to ensure compliance with regulations in subchapter M.

Two commenters, an individual and a towing company, felt that the regulations are not based on risk. A company asserted that a risk-based approach supported by towing vessel casualty data should be the main motivation behind the application and development of towing vessel safety regulation.

As reflected in discussions below regarding specific requirements, the Coast Guard has used a risk-based approach in this rulemaking. We have reviewed comments on cost and other assumptions on which we based our proposed rule and have made changes when appropriate to ensure that this final rule is risk-based. For data supporting this assessment, see the Regulatory Analysis for the final rule.

One commenter indicated that the Coast Guard's Marine Safety Directorate has not sought to help working mariners. The commenter praised Congress for amending 46 U.S.C. 2114 to protect a seaman against discrimination if he or she testifies in a proceeding brought to enforce a maritime safety law or regulation, or engages in certain other actions involving the seaman's work, or participates in a safety investigation by the Department of Homeland Security or National Transportation Safety Board (NTSB). The commenter listed four areas where mariners' safety, health, and welfare, in the commenter's view, were largely unprotected: Workplace safety on uninspected dry cargo barges, hearing protection and noise prevention, asbestos, and personal protective equipment. The same commenter urged Congress to transfer authority over workplace inspection, drafting safety regulations, and requiring proper maintenance of barges from the Occupational Safety and Health Administration (OSHA) to the Coast Guard. This commenter also recommended areas in which the NPRM should be revised to promote workplace safety and health regulations, including training of Coast Guard inspectors in OSHA-workplace-safety regulations and the use of personal protective equipment.

The Coast Guard notes the commenter's concern; the commenter's specific suggested revisions to the regulations proposed in the NPRM are addressed below where we discuss 46 CFR part 140, Operations, which includes subparts on crew safety and safety and health, and other parts addressed by this commenter.

C. Organization, General Course, and Methods Governing Marine Safety Functions (Part 1)

In our NPRM, we did not propose to amend part 1, but in this final rule we added § 1.03–55 to address comments on the appeals process for a company whose certificate is rescinded. See section IV.H below. Our proposed § 136.180 pointed to 46 CFR 1.03 for those seeking to appeal, but we saw the need to identify the Coast Guard official or entity that appeals should be directed to, including the appeal of matters relating to action of a third party, such as when a TPO rescinds a TSMS certificate.

D. User Fees and Inspection Table (Part 2)

Part 2 of 46 CFR is in subchapter A. We received two comments regarding user fees. An association asked the Coast Guard to clarify whether those choosing both the TSMS and the Coast Guard inspection options will have to pay whatever user fee is assessed in the final rule to recover the costs of the entire new towing vessel inspection program. Another commenter asserted that charging user fees to finance the implementation of regulation that is not risk-based will return little value to the industry.

Under 46 U.S.C. 2110 and the Coast Guard's regulations in 46 CFR subpart 2.10, the Coast Guard is required to charge a fee for services provided for vessels required to have a Certificate of Inspection (COI). Subpart 2.10 fees, however, do not apply to the initial issuance of a COI.

This fee for services must meet the criteria of 31 U.S.C. 9701 (Fees and charges for Government services and things of value) to be fair and based on the cost to the government, the value of the service being provided, the public policy served, and other relevant facts. The Office of Management and Budget (OMB) Revised Circular A–25 explains that full program costs should be recovered by fees charged.

In our NPRM, the Coast Guard stated its intent to establish a user fee, as required by law, for those vessels required to comply with subchapter M, and indicated that this user fee would be established through a separate rulemaking process that would commence on or around publication of this final rule. The Coast Guard also committed to not inspecting towing vessels or issuing COIs to towing vessels until user fees were established. (76 FR 49985, August 11, 2011.)

We still plan to promulgate a separate rulemaking for an annual inspection fee specifically for towing vessels, under the authority in 46 U.S.C. 2110 and 31 U.S.C. 9701, that will consider the specific program costs associated with the TSMS and Coast Guard inspection options. However, until that time the

Coast Guard is establishing the existing fee of $1,030 stated in 46 CFR 2.10–101 as the annual inspection fee for towing vessels subject to subchapter M, for any inspected vessel not listed in Table 2.10–101. As reflected in 46 CFR 2.10–1(b), this annual inspection fee will not be charged for an initial COI inspection, but the fee will be charged annually starting a year later. Once this final rule becomes effective, the Coast Guard will apply the existing annual fee listed in 46 CFR 2.10–101, Table 2.10–101 as "Any inspected vessel not listed in this table" to subchapter M vessels other than those already separately listed in the Table. Since all vessels subject to subchapter M will be considered inspected vessels and required to obtain COIs, regardless of whether the TSMS option is chosen, all subchapter M vessels receiving COIs will be charged an annual inspection fee as outlined above.

User fees charged by the Coast Guard under 46 U.S.C. 2110 do not directly finance Coast Guard operations and thus user fees do not finance the implementation of the regulations. OMB's Revised Circular A–25 explains that user fees are intended to offset the cost of providing services to specific beneficiaries.

Regarding the comment about the lack of value of a user fee to finance the implementation of a non-risk-based regulation, we have used a risk-based approach in developing this rulemaking and have made changes from the proposed rule taking into account commenters concerns to ensure that this final rule continues to rely on risk-based analysis.

Other Certification Changes

In the NPRM we stated we would amend the table in subchapter I—and in other subchapters—that identified inspection and certification regulations applicable to vessels. Our intended amendments to those tables were to reflect changes for towing vessels introduced by subchapter M (see discussion in 76 FR 49979, August 11, 2011). Since the NPRM was published, however, in a separate rulemaking (79 FR 58270, 58272, September 29, 2014) the Coast Guard removed tables in 46 CFR 24.05–1, 70.05–1, 90.05–1, and 188.05–1. Those tables replicated a table in 46 CFR part 2 dedicated to inspection regulations and thus were not necessary.

Rather than add to the 7-column, 7-page table in 46 CFR 2.01–7(a), we have amended the text before and after the table instead. These amendments direct towing vessels to a new paragraph (b), which directs those subject to this rule to subchapter M for inspection and certification regulations, and other towing vessels to Table 2.01–7(a).

E. Manning (Part 15)

We received approximately 40 comments that addressed the issue of manning. Part 15 of 46 CFR is in subchapter B.

We received several comments stating that the Coast Guard should require minimum crew manning levels. One commenter said wheelhouse manning is a concern due to the shortage of qualified individuals holding the appropriate merchant mariner credential, especially with the retirement age approaching for many currently qualified individuals. A maritime company said the minimum manning level should be included in the COI. Another commenter noted in response to COI requirements proposed in part 136 that this regulation should clarify the number of required crewmembers and allow the towing vessel to be operated by a single crewmember in certain circumstances.

In accordance with 46 CFR 15.501, the Coast Guard will specify the minimum manning for each towing vessel in all of the vessel's areas of operation on the vessel's COI, including international and domestic operations. We note that Officers in Charge, Marine Inspection (OCMIs) will review operational details of the vessel and work with companies to make decisions on vessel manning which could indicate various levels of manning based on specific routes and service of the towing vessel when determining the number of required crewmembers for a towing vessel. We do not envision an appreciable increase in the number of qualified individuals needed to man inspected towing vessels. The influence of market forces on the number of individuals seeking to become credentialed operators is beyond the scope of this rulemaking.

Several commenters opposed any change to the current manning levels required for towing vessels, and some commenters recommended specific changes to several sections currently in the CFR, such as 33 CFR 155.710(e) and 46 CFR 15.810(b) and 15.820(a)(3), to avoid inadvertent changes to the manning or credentialing requirements given the Coast Guard's statement in the NPRM that "we are not proposing to change any of the current manning levels required for towing vessels" (76 FR 49990, Aug. 11, 2011).

As previously stated, the Coast Guard will make a vessel-specific assessment of the manning required for a given vessel's operations. The minimum manning required for safe operations may differ from one operation to another. As with other inspected vessels, this is a vessel-specific determination made by the cognizant OCMI.

The Coast Guard believes the requested change to § 15.820(a)(3) is already addressed through existing regulations. For inspected vessels 300 gross tons and above that operate on inland waters, 46 CFR 15.820(a)(3) requires the vessel to have an individual with a license or the appropriate merchant mariner credential (MMC) officer endorsement if the OCMI determines that such credentials are necessary for the person responsible for the vessel's mechanical propulsion. For purposes of towing vessels, however, the applicable subchapter B definition of "inland waters" excludes the Western Rivers. See 46 CFR 10.107. Therefore, § 15.820(a)(3) does not apply to a towing vessel when it is operating on Western Rivers, a term also defined in § 10.107. Based on a recent survey of the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) database, we have concluded that most inland towing vessels 300 gross tons or above operate on the Western Rivers. Those towing vessels operating on inland waters beyond the Western Rivers may be required to have a credentialed individual responsible for the vessel's mechanical propulsion based on a vessel-specific assessment conducted by the cognizant OCMI.

The Coast Guard believes changes to 33 CFR 155.710(e) that would allow the use of a letter-of-designation for an inspected towing vessel are not warranted. The requirements of 33 CFR 155.710(e)(1) apply to all inspected vessels required by 46 CFR chapter I to have an officer aboard, including towing vessels that become inspected vessels under this rule. Congress made towing vessels a class of vessels subject to inspection, and we have no evidence that towing vessels are less likely to spill oil than the other inspected vessels already subject to § 155.710(e)(1). We also see value in uniform requirments for inspected vessels conducting the same activities. We note, however, that existing § 155.130 provides for exemptions from compliance with the requirement if authorized by the COTP or OCMI for reasons such as economic or physical impracticality. We therefore believe that adequate flexibility already exists in Part 155 to accommodate any unexpected consequences of towing vessels becoming subject § 155.710(e)(1).

The Coast Guard believes changes to 46 CFR 15.810(b), in order to exempt towing vessels subject to subchapter M from the requirements for a minimum number of mariners holding a license or MMC officer endorsement as mate required to be carried on certain inspected vessels, are not warranted. Towing vessels are one of the several classes of vessels that are authorized to use a two-watch system and, as a result, additional mates are unnecessary to comply with this level of manning.

Some commenters urged the Coast Guard to adopt TSAC's 2006 recommendations to amend proposed 46 CFR 15.535 to incorporate a baseline requirement for a safe watch complement. This was intended to avoid confusion about the minimum manning that will be required on towing vessel COIs and the role of the TSMS in crewing decisions.

Consistent with our NPRM preamble statement that we were not proposing to change any of the current manning levels required for towing vessels, we modeled our proposed § 15.535 after § 15.610, which addresses towing vessel master and mate (pilot) requirements on uninspected vessels. But as noted above in section IV.B, we made a change in § 15.535 from what we proposed in the NPRM. To reflect the 2010 Act's amendment to 46 U.S.C. 8905, we made a conforming amendment to § 15.535(b) to remove an non-applicability reference to certain towing vessels of less than 200 gross register tons engaged in exploiting offshore minerals or oil. While reviewing proposed § 15.535 in response to a comment discussed above, we noted the need to remove a reference to vessels engaged in assistance towing because the applicability of § 15.535 does not include vessels engaged in assistance towing. Further, we revised paragraph (a) to more clearly state which vessels are subject to § 15.535, to specify the vessels not subject to subchapter M that must meet requirements § 15.535(b), and to note that all towing vessels subject to § 15.535 must also meet requirements in § 15.535(c). Finally, we inserted clarifying edits and paragraph headings in § 15.535 to make it easier to read and understand, and in both §§ 15.535 and 15.610 we clarified that the officer in charge of the vessel must provide the evidence to the Coast Guard.

Also, we made changes to § 15.535 to ensure consistency in the nomenclature introduced by the Consolidation of Merchant Mariner Qualification Credentials final rule (74 FR 11196, Mar. 16, 2009), and to § 15.610 to ensure that this section refers to the remaining uninspected towing vessels. Our changes also reflect the recent amendments made by the final rule entitled Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to Domestic Endorsements (STCW) (78 FR 77796, Dec. 24, 2013).

As the authority issuing the vessel's COI, the cognizant OCMI is required by law to stipulate the manning for an inspected vessel. See 46 U.S.C. 3309 and 8101, 33 CFR 1.01–20, and 46 CFR 2.01–5 and 15.501. She or he can take a variety of factors into consideration when determining the safe manning for a vessel, including recommendations from the owner or managing operator. In some cases, existing law or regulations specify the minimum manning for a particular voyage, area of operation, or vessel service. See *e.g.,* 46 U.S.C. 8301 and 46 CFR 15.610. In this final rule, 46 CFR 15.535 would set one such minimum. An OCMI may specify a level of manning above those minimums specified by law if such a level is warranted to safely operate the vessel. See 46 U.S.C. 8301(d)(2) and 46 CFR 15.501. A vessel's safety management system can identify situations where additional manning may be warranted (such as high water conditions) but it cannot specify a level of manning below the minimum established by the OCMI at any time.

We received some comments stating that the language used in § 15.535(c) concerning towing vessels in pilotage waters on the Lower Mississippi River is not clear. One commenter said it would be useful to define the geographical limits of the "pilotage waters of the Lower Mississippi River" in § 15.535(c). Another commenter said the language should be the same as that used in § 15.610(b).

The Coast Guard agrees with these comments and has changed the text in § 15.535(c) to match the current text of § 15.610(b), except for necessary organizational changes and to specify that the evidence should be provided to the Coast Guard. The pilotage waters of the Lower Mississippi River are described in a notice of designated areas published December 26, 1996 (61 FR 68090).

Some commenters said crew size should be dictated by the size and needs of the vessel. One commenter said the vessel master must have the final say on the crew requirements. A towing company said it is important that the minimum manning requirements account for different vessel operations (*e.g.,* crew of three for ship assist work in-harbor versus crew of six for offshore trips).

While the master has a role in ensuring the proper manning of a vessel, the master must observe applicable law and regulations, and the manning specified by the Coast Guard on the vessel's COI when performing that role. We note that under § 140.210, the master must ensure that adequate corrective action is taken when he or she encounters unsafe conditions. The COI issued by the Coast Guard will specify the minimum manning for the vessel under normal operating conditions and the master must adhere to the provisions of the COI. See § 140.210(a)(1). The towing vessel master and the TSMS should identify when, and if, additional personnel are needed on board the towing vessel. During flood or low water conditions, for example, the master may specify that additional crew members are needed.

We received some comments requesting that the Coast Guard clarify and resolve differences in language between § 15.535 and language in the STCW Supplemental NPRM that proposed to amend § 15.610.

As noted above, the STCW final rule has been published, and we have amended the text in § 15.535(c) to match the current § 15.610(b). There was a slight variation in wording between § 15.535(c) as originally proposed and § 15.610(b).

Further, our proposed § 15.535(c) specified that the towing vessel "be under the control of an officer who holds a first class pilot's license or endorsement for that route, or who meets" requirements related to the type of barge being towed. The current § 15.610(b) specifies that the towing vessel be under the control of an officer meeting that section's requirements for a towing vessel of 26 feet or more in length and that that officer hold "a first-class pilot's endorsement for that route or MMC officer endorsement for the Western Rivers, or" that the officer meets the requirements for a towing vessel of 26 feet or more in length and the requirements based on the type of barge being towed. Consistent with the commenters' recommendations, we have amended § 15.535 to conform to the current version of § 15.610.

Also, because we added § 15.535 to address vessels subject to subchapter M, we inserted a paragraph at the beginning of § 15.610 to limit that section to towing vessels not subject to subchapter M. Applicability exceptions in subchapter M explain that some towing vessels at least 8 meters in length will still be subject to § 15.610. We made necessary organizational changes to § 15.610 to reflect our insertion of this new paragraph.

An individual recommended that in addition to the towing vessel being operated by a properly licensed master, our rule should require at least one crew member to be documented with preferably an "Able Bodied" seaman's rating. The commenter noted his marine work experience and seeing members of a construction crew assigned to handle the lines when a towing evolution was needed. He stated that the skills and knowledge of construction workers do not always overlap with those required of seamen.

We did not propose the change suggested by this commenter and would want to receive comments before making the suggested change. But we are confident that the manning requirements in § 15.535 and requirements in § 140.210 for reporting and addressing unsafe conditions provide assurances that lines will be properly handled during towing evolutions. We have not made a change from the proposed rule based on this comment.

We received one comment saying that our rulemaking seeks to address issues such as a "man overboard" situation, but such situations are innately linked to minimum safe manning of a vessel. The commenter asked how a licensed towing officer at the helm is expected to safely and successfully recover a single deckhand from the water should the deckhand go overboard during routine operations.

We have addressed requirements for lifesaving equipment, arrangements, systems, and procedures on towing vessels in Section IV.K of this preamble, "Lifesaving," and lifesaving regulations are located in part 141 of subchapter M. When specifying the minimum complement of officers and crew necessary for the safe operation of the vessel, the OCMI is called on to consider emergency situations such as a person overboard. See 46 CFR 15.501.

One commenter pointed out that language used in § 15.535 in the NPRM regarding an exception for certain towing vessels was eliminated by section 606 of the 2010 Act.

As noted above in response to a comment addressed in section IV.B, section 606 of Public Law 111–281 did strike the paragraph in 46 U.S.C. 8905 that exempted vessels of less than 200 gross tons "engaged in the offshore mineral and oil industry if the vessel has offshore mineral and oil industry sites or equipment as its ultimate destination or place of departure" from 46 U.S.C. 8904 requirements and regulations promulgated under 46 U.S.C. 8904. This statutory change was not reflected in our proposed rule. Accordingly, we made a conforming amendment to § 15.535(b), which excludes certain vessels from the licensed-master-or-mate requirement, by deleting the reference to vessels engaged in the offshore mineral and oil industry. This amendment to § 15.535(b), which now only exempts vessels engaged in assistance towing from the licensed-master-or-mate requirement, conforms this final rule to Public Law 111–281's amendment to 46 U.S.C. 8905.

One commenter expressed concern about the words "not to include over time" in the definition of "day" in existing 46 CFR 10.107 and that section's computation of service hours on vessels less than 100 gross register tons (GRT). The commenter stated that work-hour abuses occur, especially on vessels of less than 100 GRT, because a day of work is considered 8 hours. Also, overtime is not counted toward sea service. The commenter recommends that this loophole be removed.

In the proposed regulatory text of the NPRM, we did touch on 46 CFR chapter I, subchapter B, Merchant Marine Officers and Seamen, but we did not propose any changes to 46 CFR part 10, Merchant Mariner Credential, where 46 CFR 10.107 is located. Related to this comment, we note that Section 607 of the 2010 Act, which amended 46 U.S.C. by introducing additional logbook and entry requirements in 46 U.S.C. 11304, included entries for the "number of hours in service to the vessels of each seaman and each officer." We would need a separate rulemaking to fully implement section 607 of the 2010 Act, which involves hours of service; that rulemaking could apply to more than just towing vessels.

We amended a regulation, 46 CFR 15.815(c), that requires a radar observer endorsement for masters or mates onboard an uninspected towing vessel 26 feet or longer by removing the word "uninspected." When that regulation was issued, most towing vessels were uninspected, and § 15.815(a) covered towing vessels 300 GRT or more that were inspected. Because most towing vessels 26 feet or longer will become inspected once this rule becomes effective, we are making this conforming amendment to 46 CFR 15.815(c). This change is consistent with our § 15.815 towing-vessel specific enabling statute, 46 U.S.C. 8904(a), which distinguishes towing vessels purely on length, not whether they are inspected or uninspected. Because § 15.815(c) already requires this radar observers' endorsement on uninspected towing vessels, there is no anticipated cost associated with this change.

F. Certification/Definitions/Applicability (Part 136)

Applicability

We received some comments supporting the Coast Guard's decision to defer consideration to a subsequent rulemaking of requirements for towing vessels less than 26 feet in length, towing vessels used solely for assistance towing, and work boats operating exclusively within a work site and performing intermittent towing within a work site. Several commenters expressed support for the concept of excepted vessels but felt that clarification is needed with regard to the range of fleet and harbor service operations that fall under this term. Others suggested that some aspects of the equipment requirements, like distress flares and additional lifebuoys, could be removed from the rule.

In our definition of "excepted vessel" in § 136.110, we make reference to harbor-assist, but we define that term in addition to "limited geographic area" and we believe those definitions are sufficiently clear to identify the range of harbor service operations that fall under these terms. We had included a reference to a fleeting area as an example of a limited geographic area in our proposed definition of "excepted vessel," but, as discussed below in this section (IV.F), we removed that and other examples for the separately defined term "limited geographic area." Also, we amended the reference to vessels that may be included by the cognizant OCMI in this definition by identifying the requirements and reasons the OCMI must consider before treating a vessel as an excepted vessel for purposes of some or all of the requirements listed.

The Coast Guard has not subjected excepted vessels to certain requirements in part 142 for fire protection equipment, and certain requirements for new vessels in part 143 for alarms and monitoring, general alarms, communication, fuel shutoff, additional fuel system requirements for existing vessels, and electrical power sources, generators, and motors, and electrical overcurrent protection. We have considered a commenter's request to also not require excepted vessels to comply with distress flare and additional lifebuoy requirements but decline to do so because the factors used to except these vessels do not reduce the need for flare and lifebuoy requirements.

In § 141.375, we have a more precise exception regarding distress flares and do not require that they be carried on vessels operating in a limited geographic area on a short run limited to approximately 30 minutes away from the dock. Also, we have reviewed our lifebuoy requirements in § 141.360 based on the request to not require additional lifebuoys of excepted vessels, but have not adopted this suggested change because some excepted vessels, for example, towing vessels used for response to an emergency, need to have on board the lifebuoys required under § 141.360. Also, we noted our use of the term "excepted towing vessel," instead of "excepted vessel," in part 143. We have clarified part 143 by making all proposed references to "excepted towing vessel," consistent with the term we defined, "excepted vessel."

Some commenters did not agree with our exception of towing vessels less than 26 feet for several reasons, including smaller vessels being given an unfair competitive advantage, the fact that such vessels may be engaging in commercial work, and a concern about regulatory avoidance.

Our exemption for towing vessels less than 26 feet in length is intended to provide for an incremental application of inspection status to the towing vessel fleet and is consistent with the recommendations of TSAC. We note here that we made edits in § 136.105 to ensure that the exemptions in that section are clearly stated. Specifically regarding our meter approximation of 26 feet, we changed "(8 meters)" to the more precise approximation of "(7.92 meters)." Also we corrected the threshold for vessels subject to subchapter I.

An individual noted that towing vessels should be measured end-to-end at actual length, and another commenter suggested that the size of tow should be used to determine exempt vessels. Another individual recommended that the exemption should be based on a combination of length, displacement, and shaft horsepower in order to remove the incentive to use short, high-power tugs to circumvent Coast Guard inspections. A commenter suggested a clarification that towing vessels less than 26 feet in length are not exempt if they move barges carrying oil.

For methods of measuring towing vessels, the Coast Guard sees no reason to deviate from the statutory standard in 46 U.S.C. 8904(a) which is reflected in 46 CFR 15.535 and 136.105: Length measured from end to end over the deck (excluding the sheer). We considered the suggestion of using size of tow or a combination of length, displacement, and shaft horsepower as a way to determine applicability, but we believe using the length of the towing vessels is a more manageable approach which—while not as direct—provides a measure of risk control.

We agree that a change from the proposed rule is necessary to clarify that vessels less than 26 feet are not exempt from the requirements of this rulemaking when towing a barge carrying oil. In proposed § 136.105, when identifying exceptions to applicability, we made clear that towing vessels less than 26 feet that push, pull, or haul a "barge that is carrying dangerous or hazardous material" would not be excluded from subchapter M applicability. In the NPRM, we did not define the term "dangerous or hazardous material" but in the preamble we did describe our limitation on the less-than-26-feet exemption by stating this rule does not apply to towing vessels less than 26 feet in length "unless towing a barge carrying oil or other dangerous or combustible cargo in bulk." To make this intent clear in the regulatory text of the final rule, we have adopted the defined term "oil or hazardous material in bulk," to replace the term "dangerous or hazardous material" in § 136.105(a).

Also, to clarify that only one form of hazardous material needs be carried to trigger applicability, we changed "materials" to the singular, "material," throughout the final rule. Also, we amended the definition of "oil or hazardous material in bulk" by inserting "to carry cargoes" in its reference to being certified under subchapters D or O to better reflect the nature of the certifications.

Other companies supported the less-than-26-foot exception. One commenter acknowledged that the Coast Guard could address smaller towing vessels in a future rulemaking. An individual thought the exception should apply to even longer vessels (up to 32 or 40 feet in length) because such vessels are too small to do any serious towing, and a company agreed and stated that all its shipyard and harbor service vessels were 34 feet or longer.

As noted above, the Coast Guard approach in transitioning the uninspected towing vessel fleet into an inspected status is to do so incrementally over time. Based on our analysis of risk and a specific recommendation provided by TSAC,[1] we proposed that subchapter M apply to vessels 26 feet and above. This length standard has been used in various statutes to establish requirements for radiotelephones, automatic identification systems, electronic charts, and manning for towing vessels. See 33 U.S.C. 1203 and 1223a, and 46 U.S.C. 8904 and 70114. We find no perfect length for measuring risk, but we believe 26 feet is the best breakpoint to use at this time in our transitioning of the uninspected towing vessel fleet into an inspected fleet.

We received one comment supporting the exception for workboats that do not engage in commercial towing for hire but perform intermittent towing within a worksite. A contracting company agreed that increased equipment requirements are not needed for job site boats. Two individuals suggested that the exception should be simplified, such as by including a mileage limitation. A company recommended a slight expansion of the exception to cover workboats going to or from the worksite.

The Coast Guard disagrees with the recommendation to include a mileage limitation or expand the exception, and believes the terms "worksite" and "workboat" are adequately defined in § 136.110. The OCMI will make determinations of the boundaries and limitations of worksites within the OCMI's zone. The OCMI will evaluate the unique operating conditions and hazards of the area and determine the risks and mitigating factors necessary to support such operations.

A commenter requested that we treat workboats engaged in oil spill response activities as exempt, just as we exempt workboats operating in a worksite.

The Coast Guard has already included an exception for towing vessels engaged in emergency or pollution response in our definition of "excepted vessels" in § 136.110. We do not intend to provide a general exemption to oil spill response vessels from these rules. Instead, the OCMI may designate a pollution response area as a worksite which would afford a towing vessel the opportunity to be exempt from subchapter M while it is operating exclusively in the worksite if it qualifies as a workboat under § 136.105(a)(3).

This is consistent with the Coast Guard's intent to provide inspection standards to certain vessels based on risk and consistent with the recommendations of TSAC. This rule exempts certain types of vessels from subchapter M, and relieves other types of vessels, excepted vessels, from certain equipment requirements due to the nature of their service. We have made no changes from the proposed rule based on this comment.

Two commenters suggested adding language to our worksite exception in § 136.105(a)(3) to include "maneuvering a tank barge on and off of a drydock or cleaning dock" to the "intermittent towing" covered in the worksite; and others recommended that we amend our "excepted vessel" definition in § 136.110 to include moving vessels on and off drydocks and to and from cleaning docks, or shifting vessels within a limited geographic area, or including a full range of activities commonly performed by towing vessels in a limited geographic area.

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[1] "Report of the Working Group on Towing Vessel Inspection," p. 6, submitted to TSAC on September 29, 2005.

The Coast Guard sees no need for these recommended changes. Our workboat exception in § 136.105(a)(3) covers the activity the commenter requests we add. Also, our definition of "excepted vessel" in § 136.110 includes towing vessels operating "within a limited geographic area." Excepted vessels could include towing vessels moving vessels on and off drydocks and to and from cleaning docks. But we have left this determination to the discretion of the cognizant OCMI, to be made on a case-by-case basis.

We received a very large number of comments, particularly from commenters in the American Waterways Operators (AWO) Responsible Carrier Program (RCP), that expressed the belief that the TSMS should be required for all towing companies and should not be optional. Proponents argued that the TSMS is flexible and scalable, would create consistency, and addresses human error, the leading cause of towing vessel accidents. Some of the commenters favored having a third-party audit option and conservation of Coast Guard resources. A maritime company stated that the savings accruing from a robust TSMS will far outweigh any associated cost of development and implementation. One company observed that a TSMS gives a company the ability to adjust its system through lessons learned and continuous improvement, rather than complying with a set of standards once a year. Commenters stated that the Coast Guard should not make the TSMS optional because of concern about costs; instead the Coast Guard should eliminate requirements that are not justified by risk analysis. One commenter warned, however, that a TSMS is not a substitute for an inspection.

We received many other comments that supported retaining the option of inspection by the Coast Guard. Proponents favored the flexibility provided by having the option, the reduced administrative burden of the Coast Guard inspection, cost efficiency for small businesses, and the fact that the Coast Guard already has a successful inspection program. An association has favored a traditional Coast Guard inspection program for the towing industry. An individual noted that small companies cannot afford to create and implement a TSMS and would depend on the Coast Guard to provide yearly inspections and guidance. Other individuals and a State government recommended that the Coast Guard should develop a model TSMS that would be easy for small companies to adopt. Another individual opposed having optional provisions in a regulation. A commenter pointed out that current form CG–3752, Application for Inspection of U.S. Vessel, should be revised to add a block for indicating which option is being used for the towing vessel.

As we noted in the NPRM (76 FR 49979), the NTSB and TSAC have strongly supported a TSMS, and the approach is supported by the International Safety Management (ISM) Code. The NTSB disagreed with our applicability exception for seagoing towing vessels of 300 gross tons or more subject to the provisions of subchapter I because currently under 33 CFR part 96 only vessels measuring more than 500 gross tons and operating on international voyages are required to have SMS and the subchapter M regulation does not apply to the 22 seagoing towing vessels of 300 gross tons or more already inspected in accordance with regulations for cargo and miscellaneous vessels in 46 CFR subchapter I. The NTSB encouraged the Coast Guard to extend the SMS requirement to these seagoing vessels by requiring SMS on all seagoing towing vessels of 300 gross tons or more.

The Coast Guard believes the traditional annual inspection regime we offer as an option to all towing vessels subject to subchapter M will provide necessary measures to ensure compliance with subchapter M requirements and enable us to detect non-compliance.

The Coast Guard notes the NTSB concerns and acknowledges that not all seagoing towing vessels subject to subchapter I are required to comply with SMS requirements in 33 CFR part 96, subpart B, for vessels on international voyages. That applicability threshold of the 500 gross tons reflects an international standard from the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS) for vessels subject to Chapter IX of SOLAS, Management of the Safe Operation of Ships. In general, the Coast Guard supports all towing vessels being subject to a robust and well-functioning safety management system. Should the Coast Guard decide to extend SMS requirements to all vessels subject to subchapter M, or to seagoing towing vessels of 300 gross tons or more that are subject to subchapter I, we would proceed with a separate rulemaking. We would look at accident data after this rule becomes effective before proposing such a rule.

We are considering the suggestion that we amend form CG–3752, Application for Inspection of U.S. Vessel, to add a block to indicate which option the towing vessel owner or managing operator is using. For now, we recommend using the "Other (Indicate)" box—*e.g.,* "Towing Vessel (TSMS option)" or "Towing Vessel (CG Inspection option)."

We received some comments from towing or dredging companies suggesting exemption from the entire rule for certain vessels, such as all existing vessels, vessels under 79 feet, vessels under 200 gross tons, or vessels operating on inland and harbor routes. One company argued that construction/dredge tugs on the Great Lakes should be considered for exceptions. Another company requested an exception for vessels that work as towing vessels less than 10 percent of the year. A small company with an 18-foot tow vessel and a 33-foot barge that carries less than 10,000 gallons of diesel requested an exception. Some commenters suggested that vessels used to move passenger barges should be specifically excluded. One company recommended that a committee should be formed to examine which regulatory provisions are appropriate for particular vessels.

The Coast Guard does not believe that broad exemptions from the requirement of these rules would serve the intended goal of improving safety in the towing vessel industry. The Coast Guard seeks a balance between a tiered implementation of towing vessel safety rules to vessels with the greatest risk and a prudent exemption of applicability to towing vessels with less potential risk to life, property and the environment.

One commenter suggested exemptions for towing vessels operating on inland and harbor routes not engaged in transporting petroleum products. In particular, they argued that the TSMS and towing vessel record (TVR) requirements should only apply to vessels that tow oil and hazardous material, or are over 79 feet and 2,000 HP.

The Coast Guard disagrees. As we note in our earlier discussion of part 136 comments, the Coast Guard does not intend to create exemptions for all types of inland towing operations, or to provide exemptions for particular areas without cause. We note, however, that under § 136.230 the OCMI may consider route-specific requirements of subchapter M when designating a permitted route.

Regarding the TSMS requirement, it is optional. In this final rule, the only vessels required to maintain a TSMS are those that choose the TSMS option. A TSMS, however, may benefit every type of towing vessel regardless of its service routes, vessel length, or vessel horsepower. For more details on this, see the discussion in section IV.B and the RA for the final rule (in the docket). As for the TVR requirement, the vessel owner or managing operator has the option of maintaining it electronically or on paper, and for towing vessels with a TSMS, the required records may be maintained in another record specified by the TSMS. It is essential for maritime safety that data we require in § 140.915 be recorded. We discuss the TVR requirement, and the various forms it may take, in more detail in our discussion of part 140 comments.

We received one comment that favored applying the rule to vessels towing oil and providing harbor assist to large ships, applying a less costly system to other vessels, and clarifying exemptions. Many commenters agreed that rules designed for offshore or ocean routes or large rivers were not appropriate for vessels in canals, harbors, or shallow rivers. The commenters opposed a one size fits all approach, and noted that Congress intended different standards for various types of towing vessels. One of the commenters favored grandfathering existing vessels into compliance for as many of the requirements as practicable. Another commenter, however, noted that risks are similar for inland and harbor towing as for coastwise or ocean towing, and solutions, such as planning and testing, should be similar. A towing company opposed having more stringent rules for tank barge operators than for companies that haul dry cargo barges.

The Coast Guard agrees that there are different characteristics, methods of operation, and nature of service of towing vessels that require unique application of requirements. The Coast Guard believes that the utilization of a TSMS allows the operator to tailor safety processes to the unique conditions in which the vessel and company operate. A TSMS is scalable, dynamic, and customized by the operator for the unique risks, challenges, and operating environments anticipated. Some hazards are universal to all vessels regardless of where they operate. Therefore, the Coast Guard believes that certain minimum standards are necessary to mitigate these risks and seeks to apply them to all towing vessels subject to this rule. The additional variations necessitated by the type and area of operation can be accommodated by a TSMS.

An association questioned whether "Lugger Tugs," towing vessels that carry cargo, would be inspected as towing vessels or as offshore supply vessels. One individual urged the Coast Guard to ensure consistency in regulatory enforcement and fairness for all vessels.

The Coast Guard notes that towing vessels that carry cargo for hire, or conduct other regulated activities—such as carrying passengers for hire, would likely be subject to regulations contained in other subchapters. Vessels engaged in two (or more) separate regulated activities are referred to as being in "dual (or multiple) service." Towing vessels that want to conduct activities other than just towing need to seek approval from the OCMI issuing the COI. The Coast Guard provides guidance to all OCMIs to help ensure consistency in regulatory enforcement and fairness for all vessels. In the example of a towing vessel carrying cargo, that vessel meets the definition for two vessel types and would have to meet additional requirements to carry cargo on the towing vessel. Numerous parameters, including vessel characteristics and the operations conducted by the vessel, would determine under which vessel type the vessel would be inspected.

For clarification, we amended our description of "public vessel" in § 136.105 to match the term defined in 46 U.S.C. 2101. We also point to the 46 U.S.C. 2101 definition for the meaning of the term in §§ 2.01–7, 15.535, and 15.610 of this chapter.

Definitions

We received several hundred comments suggesting edits, deletions, or additions to our proposed definitions in § 136.110. The discussion of changes made to the individual terms is as follows:

"Accepted Safety Management System"

We deleted our proposed definition of "Accepted Safety Management System" because we did not propose to use the term within the regulatory text of the NPRM and do not use it in this final rule.

"Audit"

We received a suggested amendment of the first sentence in our definition of "audit" that would replace "planned arrangements" and "arrangements" with "TSMS." One commenter suggested deleting the phrase "observing persons performing required tasks" in paragraph (1)(iii) of the proposed definition of "audit," because there is no definition for "required task."

The Coast Guard partially agrees with the first comment. Not all towing vessels will operate in accordance with a TSMS. Under § 138.225, some vessels may meet TSMS requirements by complying with ISM Code requirements of 33 CFR part 96 or some other SMS that the Coast Guard has accepted and deemed to meet subchapter M TSMS requirements. Rather than adopting the suggested edit, we deleted "planned arrangements" in favor of "requirements" and have made clear what requirements we intend to be covered by our § 136.110 definition of "audit" by specifying "TSMS or other applicable SMS planned arrangements."

In response to the "required task" comment, the Coast Guard has edited the definition of "audit" in § 136.110 by replacing the term "required tasks" with "specific tasks within their assigned duties," in paragraph (1)(iii) and "specific tasks" with "their assigned duties" in paragraph (1)(ii). We used the term "duties" which is used in § 138.220(b)(2) to describe training for operational duties and duties associated with the execution of the TSMS.

"Authorized Classification Society"

We received a comment from a classification society requesting that the Coast Guard delegate the inspection of towing vessels to authorized classification societies. In response, as we discuss in more detail in our TPO preamble section (IV.I), we have amended § 139.110 to clarify the distinction between audits and surveys. For the purpose of audits, a recognized classification society meets the requirements of a TPO and may work as a third-party auditor. For the purpose of surveys, an authorized classification society meets the requirements of a TPO and may work as a third-party surveyor. Further, we have amended § 144.140 to include certain authorized classification societies as being qualified to conduct a verification of compliance with design standards. Therefore, we have incorporated the part 8 definition of "authorized classification society" into this final rule.

"Buoyant Apparatus" or "Inflatable Buoyant Apparatus"

We received five comments, primarily from maritime companies and professional associations, suggesting the addition of a definition for the terms "buoyant apparatus" and "inflatable buoyant apparatus" because the terms are not defined in the proposed part

141. One maritime company suggested the following text for the definition of "buoyant apparatus": "Buoyant apparatus is flotation equipment (other than lifeboats, life rafts, and personal flotation devices) designed to support a specified number of persons in the water, and of such construction that it retains its shape and properties and requires no adjustment or preparation for use." The same commenter offered the following text for the definition of "inflatable buoyant apparatus": "Inflatable buoyant apparatus is flotation equipment that depends on inflated compartments for buoyancy and is designed to support a specified number of persons completely out of the water."

The Coast Guard does not agree that it is necessary to include definitions for commonly understood lifesaving apparatus in subchapter M. These terms are already defined in 46 CFR, part 160—Lifesaving Equipment, in § 160.010–2. We did not make any changes from the proposed rule based on these comments.

"Class II Piping Systems"

We deleted this definition as this term is no longer used within this subchapter.

"Cold Water"

A maritime trade association had no objection to the proposed definition of "cold water," and understood its application in Table 141.305 regarding survival craft; however, the commenter was unaware of any deficiency in the survival craft currently in use and requested that only a single standard apply to the Great Lakes.

The Coast Guard notes that the definition of cold water is consistent with other regulations and existing Coast Guard policy (NVIC 7–91) lists the areas designated as cold water. While the Great Lakes are generally considered cold water, several lakes are not designated as cold water during certain months of the year. The Coast Guard believes that specifying all of the Great Lakes as all cold water, year round, would impose an unnecessary burden on those towing vessels which operate seasonally when certain lakes are not designated as cold water. However, this does not prevent a vessel owner or managing operator from voluntarily carrying the equipment required on cold water at all times.

"Consideration"

We deleted this term as the proposed definition was identical to 46 U.S.C. 2101 and the term was only used once in that context, so instead we added a reference to 46 U.S.C. 2101 directly to our definition of "assistance towing" in § 136.110.

"Crewmember"

Two commenters felt that the term "crewmember" should be defined as an individual who is listed on Form CG 735(T): Master's Report of Seamen Shipped or Discharged, so as to avoid any misunderstanding related to vendors who are onboard for maintenance or repair.

The Coast Guard has revised the definition in § 136.110 to match an existing definition of "crewmember" in 46 CFR 16.105, paragraph (2)(iv) of which would exclude vendors who are onboard to conduct maintenance or repair work. Also, please note that the COI will list crewmembers required to be onboard and persons in addition to the crew that may be carried onboard the vessel.

"Disabled Vessel"

One commenter noted that some dead ships can range up to 900 feet in length and suggested that we clarify our definition of "disabled vessel" and set some limit on a dead ship's size for purposes of assistance towing. We note that a dead ship is a ship without the benefit of mechanical or sail propulsion. The commenter's concern appears based on § 136.105 excluding vessels used for assistance towing from subchapter M applicability. We defined "assistance towing" to mean "towing a disabled vessel for consideration."

The Coast Guard disagrees about the need to amend our proposed definition of "disabled vessel." We note that a dead ship would fit our definition if the vessel regularly operated under its own power but was temporarily disabled. The Coast Guard does not see a need to include a specific length criterion for dead ships in its definition of "disabled vessel" because not all assistance towing vessels are the same length or horsepower and the local COTP would assess the size and number of towing vessels needed to assist a dead ship.

"Downstreaming"

A maritime company suggested we insert "attempting to land" in place of "landing" in our proposed definition of "downstreaming." The Coast Guard acknowledges that downstreaming includes unsuccessful as well as successful attempts to align with a barge or other object, but has replaced the word "landing" with the words "in order to approach and land squarely on" instead of the commenter's suggested words. Also, we amended the definition by replacing the limited reference to the "end of the barge" with "a fleet, a dock, or another tow." Finally, we inserted the words "with the current" to describe downstreaming and to reflect the nature of our concern in § 140.610(e) where we require all exterior openings at the main deck level to be closed when a towing vessel is downstreaming.

"Engine Room"

In reviewing the definition of "engine room" in the NPRM, the Coast Guard decided the word "area" was too broad; accordingly, we have replaced "area" with "space," which is commonly used and understood in the maritime industry to refer to a specific room (also see the definition for "Accommodation space" in § 136.110).

"Element"

After reviewing this definition, which as proposed, only applied to safety management systems, we decided to delete it as the term "element" is also used within the subchapter with regard to surveys and audits. Additionally, whenever the term is used, its meaning is clear.

"Essential System"

A company requested that we replace references to "vessel" with "towing vessel" in our definition of "essential system." Another commenter noted that the definition of "essential systems" is similar to the term "critical systems" in the ISM code, suggesting that the terms be aligned or at least cross-referenced for clarification. An association whose members trade on all five of the Great Lakes noted that the definition of "essential system" is very broad and needs to be scaled back to systems that are truly essential so as to help ensure consistent application, and that as written, it is difficult to identify a shipboard system other than galley equipment that is not essential.

Regarding the first comment, the Coast Guard disagrees with the suggestion because this entire subchapter pertains to towing vessels, and we believe references to "vessel" in our definition of "essential system" clearly refer to towing vessel. We agree it is important to distinguish "vessel" from "towing vessel" in the few contexts in subchapter M where it is necessary, but we do not view our definition of "essential system" as one of them. We made no change from the proposed rule based on this first comment. In response to the second comment, to better align our definition with critical systems in ISM code, we added language to include critical systems identified in a part 96-compliant SMS. As for scaling back systems included, the Coast Guard disagrees. We believe that the definition of "essential system" accurately covers those systems that are required in subchapter M to ensure a vessel's survivability, maintain safe operation, control the vessel, or ensure safety of onboard personnel.

"Excepted Vessel"

Many commenters, including an association and various towing companies, supported the concept of "excepted vessel," under which towing vessels operating solely in fleeting and harbor services would not be required to meet certain equipment requirements in part 143. Several of the commenters suggested that the definition of "excepted vessel" should be clarified or expanded to specify activities such as moving vessels on and off drydocks or to and from cleaning docks. Also, commenters stated the definitions should encompass the full range of activities commonly performed by towing vessels in limited geographic areas or harbor assist service and that failure to do so will potentially endanger the economic viability of small to medium size harbor/fleeting companies and consequently, the small to medium size ports and industries they service. One towing company requested clarification of the meaning of "solely," because towing vessels often engage in different types of towing operations throughout their life-spans. An individual recommended that the term "harbor assist" in the definition of "excepted vessel" should be replaced by "assistance towing" to be consistent with the applicability exclusion paragraph in § 136.105(a)(2)(i) or with "recreational assist." Also a company pointed to the need to improve our definition of "excepted vessel" in § 136.110 specifically as it applies to harbor assist vessels, a common term that it noted was used for vessels that conduct ship assist activities helping larger vessels in and out of port. One towing company opposed the concept of excepted vessels and expressed the view that all towing vessels should meet the same requirements. Another company also opposed exempting fleeting or limited route vessels from the proposed provisions, because such vessels may operate in close proximity to chemical plants and barge fleets. The commenter warned that such vessels may have minimal safety standards and operators may modify their vessels to benefit from the proposed provisions. An individual provided examples of vessels that work in fleeting areas but also travel many miles away from their base of operations without proper equipment. One commenter pointed out that the example of a limited geographic area ("a fleeting area for barges or a commercial facility") in the definition of "excepted vessel" conflicts with the proposed definition of "limited geographic area."

The Coast Guard views the excepted vessel category as a valuable tool to more precisely tailor regulations. We have amended the definition of "excepted vessel" by removing the examples of limited geographic area activities. The term "limited geographic area" is defined in § 136.110 and allows local COTP discretion to determine limited geographic areas for her or his zone. Further, we note that, in addition to certain system and equipment requirements in part 143, excepted vessels are also not subject to fire protection requirements in §§ 142.315 through 142.330. In terms of clarifying the definition, we did change it to make it clear that excepted vessels are subject to subchapter M, but not to certain requirements in the subchapter. Accordingly, we changed "exempted" to "excepted" when describing action by the OCMI that would make a towing vessel excepted.

As for the recommendation that we clarify or expand on the list of specific activities within limited geographic area and harbor assist service, the Coast Guard disagrees. Instead, we have removed the examples of activities within a limited geographic area in favor of leaving the discretion with the local COTP, as stated in the definition of limited geographic area, and not have what some may read as an exclusive list of examples in our definition of "excepted vessel" that references limited geographic area. However, additional guidance beyond this rule may be developed to help the industry and public understand how operating in a limited geographic area may impact the equipment requirements if they are an "excepted vessel". The definition of "harbor-assist" remains identical to the existing definition in 46 CFR 10.107. Further, the definition of "excepted vessel" also contains the provision for the cognizant OCMI to except vessels based on reasons submitted by the vessel owner or managing operator as to why the vessel does not need to meet certain system and equipment requirements in parts 142 and 143 for the safe operation of the vessel. We believe that the ability to except certain vessels from specific equipment carriage requirements provides relief from the potential economic burden on these vessel owners.

As for clarifying the meaning of "solely" in our definition of "excepted vessel," in § 136.110, the Coast Guard sees no need to do so. The definition says "[u]sed solely," for any one or a combination of the services listed. Therefore, subchapter M provisions not required of excepted vessels would be required of a towing vessel subject to subchapter M whenever it is conducting towing operations not listed in the definition of "excepted vessels," unless it has been excepted by the cognizant OCMI. When a vessel is exclusively used in one or more of the excepted activities it is not subject to certain provisions of Subchapter M. However, if the vessel engages in activities that are not excepted, then it may be subject to those provisions even if this activity only occurs intermittently.

In the NPRM, we proposed a definition for harbor-assist that is identical to the existing definition in 46 CFR 10.107. To be excepted, a vessel would need to be subject to subchapter M, and in the applicability section, § 136.105, we state that subchapter M is not applicable to towing vessels "used for assistance towing," so we would not include "assistance towing" in activities for excepted vessels. We also exclude towing vessels engaged in towing recreational vessels for salvage, or transporting or assisting the navigation of recreational vessels within and between marinas and marina facilities, within a limited geographic area. Harbor assist and assistance towing are two separate and distinct operations, both of which we have defined in § 136.110. We have made no changes from the proposed rule based on these comments.

We have amended the definition of "excepted vessel" to remove the reference to "restricted service" and, as noted above, to remove examples from the limited geographic area sentence that may have been too narrowly focused and conflicting with the definition of limited geographic area.

"Excursion Party"

One commenter suggested that the term "excursion party" be defined as "a group visiting the vessel for no specific business purpose."

The Coast Guard added a definition for "excursion party" in this final rule; however we do not agree with the commenter's proposed definition. As addressed in § 136.245, any personnel (business, personal, etc.) not authorized to be carried by the COI would be considered by the OCMI when issuing an excursion permit.

"Flammable Liquid"

One commenter suggested that we define "flammable liquid" and "combustible liquid" as they are defined in 46 CFR 30.10–15 and 30.10–22.

The Coast Guard partially agrees. The definitions in 46 CFR part 30 apply specifically to equipment required on tankers. The Coast Guard believes that adding these definitions would not provide any additional clarification for these rather common terms used in our fire protection and machinery and electrical systems and equipment regulations in 46 CFR parts 142 and 143. However, we did modify part 143 to reference part 30.

"Fleeting Area"

We received comments from two maritime companies regarding our proposed definition of "fleeting area" in § 136.110. One commenter suggested inserting the words "or wait to load or unload cargo" after "where individual barges are moored or assembled to make a tow," and to insert "towing" before "vessel" when referencing another vessel that will transport the barges in the tow to various destinations.

The Coast Guard agrees with the second recommendation, but not the first. The inclusion of the term "towing" to the description of "vessels" makes the definition clearer. We disagree with the first recommendation to insert the words "or wait to load or unload cargo" because here we are defining "fleeting area" which is focused on making a tow, as opposed to "limited geographic area" which may cover more activities. Reflecting the definition of "limited geographic area," we also inserted, "as determined by the local Captain of the Port (COTP)," after a reference to a limited geographic area in our "fleeting area" definition.

"Fully Attended"

We deleted the definition of "fully attended" because we did not use the term in this final rule, nor did we use the term within the regulatory text of the NPRM.

"Harbor-Assist"

A maritime company suggested that for our definition of "harbor-assist," we add "shift" to "dock, undock, moor, or unmoor," and tie the escort of a vessel with limited maneuverability to these actions by removing the disjunctive "or" we have placed between those activities, and to add two more activities at the end of the definition "to shift or tow barges within a limited geographic area; or to respond to an emergency situation or pollution event involving towing vessels, vessels with limited maneuverability, or barges." Another commenter agreed and also felt that the definition should include inland harbor and fleet vessels.

The Coast Guard disagrees. Regarding the recommendation to delete "or" and restrict both "dock, undock, moor, shift, or unmoor," and "escorting" to towing vessel actions involving a vessel with limited maneuverability, we do not see a need for this change to this definition, which we adopted word-for-word from 46 CFR 10.107. For a vessel to be escorted, the vessel needs some independent maneuvering capability, which is not be true of all vessels a towing vessel may dock, undock, moor, or unmoor. We do not need to add "shift" to the definition because we believe any shifting is already captured by the words "maneuvers to dock, undock, moor, or unmoor a vessel." Also, there is no need to add shifting barges in a limited geographic area nor do we wish to add towing barges in a limited geographic area to this definition. While not self-propelled, a barge would be included in the definition's reference of a vessel, and we do not view harbor-assist as encompassing the full range of activities covered by "towing." Finally, we do not see a need to add responding to an emergency situation or pollution event involving towing vessels, vessels with limited maneuverability, or barges to our definition of "harbor-assist." Both of these activities are already included within our "excepted vessel" definition. We have made no changes from the proposed rule based on these comments; our subchapter M "harbor-assist" definition remains consistent with the 46 CFR 10.107 definition.

"Horsepower"

A professional association and private citizen expressed support for our proposed definition of "horsepower" which is that stated on the COI which reflects "the sum of the manufacturer's listed brake horsepower for all installed propulsion engines." We made no changes from the proposed rule based on these comments.

"Independent"

One commenter suggested revising or deleting the definition of "independent" because it appears only in §§ 143.300 and 143.435.

Our proposed definition of "independent" in § 136.110 is and was intended to be focused on equipment. We agree that it is not the appropriate definition for the use of "independent" outside of part 143, Machinery and Electrical Systems and Equipment. In response to this comment, we have removed the definition from § 136.110 where it would have been applicable to all of subchapter M and have placed it in part 143's definition section, § 143.115, where it is only applicable to that part. We believe the definition is useful as limited to that part and therefore, we have only restricted, and not deleted, the definition.

We use the word "independent" in a different context when we describe TSMSs and TPOs, as in our definition of "audit" and "TPO" in § 136.110, and §§ 138.205(b)(4), 138.310(d)(4), 139.115(b)(1) and 139.120(p). In that context we will use the common definition of the term—to be free from the influence, control, or determination of another or others.

"Inland Waters"

One commenter suggested deleting the proposed definition for "inland waters" because it is not defined in other 46 CFR and would be confusing when considering classes of vessels. The commenter felt that the terms "Inland waters, excluding Western Rivers" can be used instead.

The Coast Guard disagrees. "Inland waters" is defined in 46 CFR 10.107 and our subchapter M proposed definition aligns with that existing definition. To address the reach of this and other § 136.110 definitions, we have inserted the introductory text of "As used in this subchapter" in § 136.110, which reflects our initial intent that definitions in that section have limited applicability. Also, in subchapter M we only use the term "inland waters" once, in the definition of "Western Rivers," and do not view it as generating confusion regarding classes of vessels. We have made no changes from our proposed definition of "inland waters" based on this comment.

"International Voyage"

We received comments from two commenters requesting that the proposed definition of "international voyage" not include Canadian waters that are transit waters between Alaska and other States. The commenters noted that towing vessels do not always make port calls in Canada during passage and are not considered international voyages and subject to SOLAS.

The Coast Guard does not see a need to amend our definition of "international voyage." Under our definition, towing vessels transiting directly from a U.S. port in the contiguous 48 states to the state of Alaska or the state of Hawaii would not be considered on an international voyage for purposes of subchapter M because they would not be going to a port outside the United States.

"Lakes, Bays, and Sounds"

We received two comments suggesting the proposed definition of the term "lakes, bays, and sounds" be clarified to state that the operations on Kentucky Lake are not to be included in the current definition of "lakes, bays, and sounds." Another commenter suggested that the definition is too broad to include lakes, bays, and sounds in inland river systems, and should be revised to exempt lakes, bays, and sounds that are part of the inland or Western River systems.

The Coast Guard uses the term "lakes, bays, and sounds" in § 136.230 as one of a number of major headings under which each area of operation—referred to as a route—is described on a towing vessel's COI. With the exception of "rivers," "Lakes, bays, and sounds," is the least severe of the routes. Our definition matches that used for small passenger vessels in subchapter K (46 CFR 114.400) and small passenger vessels in subchapter T (46 CFR 175.400). The Coast Guard does not intend to create exemptions for all types of inland towing operations, or to provide exemptions for particular areas without cause. We note, however, that under § 136.230 the OCMI may consider route-specific requirements of subchapter M when designating a permitted route. We have not made a change from the proposed rule based on these comments.

"Limited Geographic Area"

One commenter asked for further definition of the term "limited geographic area."

Our definition of "limited geographic area"—"a local area of operation, usually within a single harbor or port"—is intended to be flexible enough to reflect the wide range of local operations. The local COTP has the discretion to determine limited geographic areas for his or her COTP zone. We do use the term "limited geographic area" as a factor in our definition of "excepted vessel," but we believe it is appropriate to not impose certain requirements, such as for additional fire-extinguishing equipment, on vessels we identify as excepted vessels, or impose less rigid lifesaving equipment requirements on vessels that operate in a limited geographic area. We assess excepted vessels and certain vessels operating in a limited geographic area as presenting a reduced risk with respect to certain subchapter M requirements.

"Major Conversion"

One commenter requested that we change our definition of "major conversion." First, the commenter would establish a threshold up front that all the factors discussed must meet—that changes result in "essentially a new towing vessel"—while also leaving that same standard in the last ("otherwise") factor. Second, the commenter would move our reference to a determination by the Coast Guard to the end of the definition. And third, the commenter would limit the "substantially prolonging the life of the towing vessel" factor by expressly excluding "the replacement of propulsion engines" from that factor.

The Coast Guard agrees with the recommendation that we move our reference to a determination to the end of our definition of "major conversion." This change makes our definition more consistent with the statutory definition in 46 U.S.C. 2101 (14a) and our existing 46 CFR 28.50 definition in subchapter C for uninspected vessels. We also clarified that reference from vaguely stating "as determined by the Coast Guard" to "as determined by the Commandant." This change better aligns the definition with the phrasing used in existing text.

We received comments from professional associations, maritime companies, and other companies who expressed concern over the phrase "substantially prolongs the life of the vessel" in the proposed definition of major conversion. Commenters felt that the definition should be clarified to explain that routine activities like maintenance or part replacement are not considered major conversions, but only those activities that would result in the converted vessel becoming a new vessel. Two commenters, a private citizen and maritime company, requested examples of what is considered a major conversion. Another maritime company suggested that the term, as it is currently proposed, would apply "new vessel" requirements to existing vessels, and discourages the maintenance of or investment in existing towing vessels.

We see no reason to adopt the commenter's two other suggested changes that deviate from the statutory definition. The first change would introduce an unexplained redundancy and the second would expressly exclude the replacement of propulsion engines from consideration of actions that substantially prolongs the life of the vessel. As reflected above, based on these comments, we have revised our definition to make it consistent with existing definitions in 46 U.S.C. 2101(14a) and 46 CFR 28.50 of subchapter C, and we did not adopt the commenters' two other suggested changes. The Coast Guard believes a replacement of propulsion engines is normally undertaken to prolong the service life of a vessel, and therefore fits the definition of "major conversion." To match the wording in 46 CFR 28.50, we changed "Coast Guard" to "Commandant" and added part 28's definition of "Commandant" to § 136.110. Major Conversion determinations are made by the Coast Guard Marine Safety Center on a case-by-case basis.

"Major Non-Conformity"

One commenter suggested the following text for the definition of "major non-conformity" which specifically identifies deviations as being from the safety management system and replaces our reference to the lack of effective and systematic implementation of the TSMS as being included as a major non-conformity, to references to items that would be considered a more significant breakdown or failure of the SMS: "Major Non-Conformity means an identifiable deviation to the safety management system which poses a serious threat to personnel, vessel safety, or a serious risk to the environment; where a large number of non-conformities exist in an area or where similar non-conformities exist throughout the company or vessel then this demonstrates a more significant breakdown or failure of the safety management system."

The Coast Guard has simplified its definition of "major non-conformity" to include the term "non-conformity"; by referring to "non-conformity", we are including a failure to conform to the SMS. Even though the definition in 33 CFR part 96, our regulations implementing SOLAS and ISM Code provisions for safety management systems, includes an example of a lack of effective and systematic implementation, we have deleted that language from the definition in § 136.110. We did not agree with the suggested definition, which could be read as creating an additional standard for a "more significant breakdown."

"New Towing Vessel"

One commenter suggested that we remove the following factor in our proposed definition of "new towing vessel": Towing vessels that underwent a major conversion initiated on or after the effective date of our final rule.

The Coast Guard disagrees with this recommended change to our definition of "new towing vessel." Standards for new vessels are sometimes set higher than for existing vessels as a means of ensuring improved safety standards over time without imposing undue costs on existing vessels. If we left major conversions out of the definition of new vessels, then we would provide incentive for existing vessels to undergo major conversions to avoid having to meet new vessel standards. Granting existing vessels the status of being "grandfathered" is a valuable regulatory approach, but factoring major conversions into our definition of "new vessels" provides a means of controlling a potential abuse of "grandfathered" status and is consistent with other 46 CFR subchapters. We have not made any changes from the proposed rule based on this comment.

However, upon further review of the definition, we determined that it should be amended for other reasons. As proposed, the definition was based on the date the vessel was contracted for or the date the keel was laid. More often than not, these will be two separate dates which could lead to confusion as to whether or not a vessel is a "new towing vessel." We amended the definition to base the determination on the date the keel was laid or the vessel is at a similar stage of construction in order to account for those instances where a vessel might be built in a modular mode of construction. We also removed paragraph (3) of the definition regarding vessels built without a contract because we viewed it as unnecessary given our removal of a reference to a contract in paragraph (a).

The second reason for amending the definition is to ensure that owners, designers, and builders have sufficient time to adapt and incorporate the requirements applicable to new vessels into the design and construction of a vessel. As proposed, the date for a new vessel was 30 days after the regulation publication date. In reviewing a commenter's request for more time to comply with the final rule, we concluded that 30 days is too short a time period. It would be very difficult and costly to make changes in line with the "new vessel" requirements in those instances where the design of a vessel is almost complete. We have determined that for smooth transition and implementation, an additional year is needed, and we amended the definition accordingly.

"Objective Evidence"

One commenter recommended we add records of an approved third-party organization as another example in our definition of "objective evidence" in § 136.110.

The Coast Guard agrees with this suggested change and has amended the definition accordingly. We already list classification society reports as an example, and would consider reports or records from a TPO as a similarly appropriate example reflecting an independent assessment.

"Pressure Vessel"

One commenter suggested we amend our definition of "pressure vessel" to simply refer to closed containers designed to hold gases, liquids or a combination at a pressure substantially different from ambient pressure—instead of just "under pressure." Another commenter suggested adding the following text as a definition for "heating boiler": "An enclosed steel or cast iron container that uses an energy source to heat water (or make steam) that is sent through heat radiating devices in the machinery space to heat a towing vessel."

The Coast Guard agrees with the comment regarding pressure being substantially different from ambient pressure and in response inserted the words "greater than atmospheric pressure" at the end of the definition. We also agreed with the need to incorporate language to include boilers so we broadened the definition of "pressure vessel" to include "unfired" and "fired" pressure vessels which incorporate boilers.

"Random Selection of a Representative Sampling"

One commenter suggested the need for defining "random selection of a representative sampling" for better consistency in the auditing process.

We do not agree that a specific definition is needed for "random selection of a representative sampling." We feel that "random selection of a representative sampling" is a common safety management system and auditing term that should be recognized and understood by any ISO–9001-trained internal or external auditor. In a related external audit provision in § 138.410(f), we removed a vague reference to samples having to be statistically valid.

"Recognized Classification Society"

We shortened the definition of "recognized classification society" by focusing on the core of the definition: A classification society recognized by the Coast Guard in accordance with 46 CFR part 8.

"Recognized Hazardous Conditions"

We deleted the definition of "recognized hazardous conditions" because we do not use the term in this final rule, nor did we propose to use it in the regulatory text of the NPRM.

"Rescue Boat"

One commenter noted that "skiff" is referenced in § 140.420(d)(4), which contains a training requirement if the skiff is "listed as an item of emergency equipment to abandon ship or man overboard recovery" and that "rescue boat" also appears in § 140.420. The commenter recommends that if a rescue boat is a separate craft from a skiff, as our use of the two terms in § 140.420 suggests, then we should define "rescue boat" in § 136.110 in addition to having defined "skiff" there.

The Coast Guard agrees with the recommendation that we add a definition of "rescue boat" to § 136.110. We do consider a rescue boat as a separate craft from a skiff. We have added the same definition of "rescue boat" in § 136.110 that appears in three existing Coast Guard regulations. This definition distinguishes the dedicated purpose of a rescue boat—to rescue persons in distress and to marshal survival craft—from the general nature of a skiff, a small auxiliary boat carried onboard a towing vessel that might be used in emergency situations.

"Replacement in Kind"

We have added a new definition to § 136.110 for the term "Replacement in kind" which was undefined in the NPRM but appeared several times in part 143. "Replacement in kind" generally means replacing a failed component with the same component, or a part with the same technical specifications as the original design. Replacements in kind may normally be accomplished by the crew, or a shipyard, as part of routine maintenance or repairs, and may not require notification to the OCMI.

"Safety Management System"

Two commenters recommended inserting the following 11 italicized words in our proposed definition of "Safety Management System":

> Safety Management System means a *systematically* structured and documented system enabling *the* owner or managing operator and *towing* vessel personnel to *identify and manage interrelated process and* effectively implement the owner or managing operator's safety and environmental protection policies and that is routinely exercised and audited in a way that ensures the policies and procedures are incorporated into the daily operation of the vessel *and company*.

In addition, one commenter recommended replacing the word "audited" with "evaluated" in the above definition.

The Coast Guard partially agrees with the proposals to change this definition.

We have amended the definition by adopting a modified version of our 33 CFR part 96 definition that identifies those enabled by the SMS and the purpose of the SMS with respect to subchapter M. We disagree with changing the term from "audited" to "evaluated" as an audit is a clearly defined and recognized activity with respect to safety management systems.

"Survey"

One commenter suggested that the difference between "audit" and "survey" needs to be clarified in § 136.110, as well as with respect to the Coast Guard option under proposed § 136.150 and the TSMS option under proposed § 136.205. Another commenter noted that these two terms, in addition to "inspection" are used interchangeably in the NPRM, as are the words "auditor, inspector, and surveyor." There were also comments about the need to clarify the frequency of audits, inspections, and surveys, and which ones may be conducted by third parties.

The Coast Guard believes that our definitions of these two terms are clearly distinguishable. Our definition of "survey" in § 136.110 focuses on compliance with subchapter M and other authorities—"an examination of the vessel, its systems and equipment to verify compliance with applicable regulations, statutes, conventions, and treaties." Our definition of "audit" in § 136.110 is more focused on systems set up to ensure that compliance. Neither proposed § 136.150, Annual and periodic inspections, nor proposed § 136.205, which describes the COI, refer to audits or surveys.

Regarding the word "inspection," we did not define that term which applies to all vessels subject to subchapter M because they are all "subject to inspection" under 46 U.S.C. 3301. In this rule, we primarily use the word "inspection" to distinguish a towing vessel that has selected the option of an annual inspection by the Coast Guard instead of a TSMS option under which surveys and audits are conducted. But regardless of the option selected, under proposed §§ 136.140 and 136.145 the Coast Guard would conduct inspections for certification on all vessels seeking to obtain or renew a COI. An inspection is similar to a survey in that both involve an examination of a vessel to determine whether it is in compliance with applicable regulations or other legal authorities. In reviewing proposed §§ 136.140 and 136.145, however, we reorganized these requirements and moved then into subpart B, Certificate of Inspection, as §§ 136.210 and 136.212.

We believe this response should clarify what we mean by the use of these terms but knowing the frequency of these activities may also help. Section 137.200 identifies the frequency of inspections associated with the Coast Guard inspection option. For vessels under the TSMS option, external and internal surveys and audits are required. Sections 137.205 and 137.210, respectively, identify the frequency of surveys under the external and internal survey programs. Finally, §§ 138.310 and 138.315, respectively, identify the frequency of external and internal audits.

"Third-Party Organization"

We received comments suggesting the need to clarify or remove our proposed definition of "third-party organization." The commenter suggested that the term is inconsistent with our repeated use of the proposed term "approved third-party organization" in part 139 and would be redundant if we adopted his recommendation to amend our proposed definition of "approved third party" to make it clear it only refers to TPOs. One commenter suggested converting our proposed definition of "approved third party" in § 136.110 to a definition of "approved third party organization" and to add "organization" to the definition so the term "means a third party organization approved by the Coast Guard in accordance with part 139 of this subchapter."

The Coast Guard agrees that our proposed definitions of the terms "approved third party" (ATP) and "third-party organization" (TPO) may cause confusion, so we deleted the term ATP and modified any references to approved third-party surveyors or auditors to make clear that such surveyors or auditors would be from a third-party organization or TPO. Also, we deleted the word "approved" used in front of TPO because by definition, TPOs are approved. Our definition of third-party organization in this final rule makes it clear that the organization is approved by the Coast Guard to conduct independent verifications to assess whether TSMSs or towing vessels comply with applicable requirements contained in this subchapter. Also, we have amended § 139.115(b) to make that approval process clearer and replaced a reference to an organization having to meet subchapter M requirements with one to expressly include the standard of meeting part 139 requirements for TPOs.

This comment also caused us to notice that our TPO definition needs to be amended to better reflect the work being done by the TPO. We added the words "assess whether" to the definition of "TPO."

"Tow"

One company recommended that we define "tow" as a vessel or vessels being moved by a towing vessel in contrast to our proposed definition that identifies the towing vessel as being part of the tow which would also include one or more barges or a vessel not under its own power.

The Coast Guard concurs with the need to clarify that tow refers to what the towing vessel is moving—be it another vessel, barge, or some other object. We have revised our definition to read "Tow means the barge(s), vessel(s), or object(s) being pulled, pushed or hauled alongside a towing vessel." This is consistent with our use of the term as a noun in our rule (*e.g.*, in § 140.625, "the movement of a towing vessel and its tow"). Reflecting this definition, in § 140.805 we added "or objects" to barges and vessels when describing what may make up a tow.

"Towing Safety Management System (TSMS)"

On reviewing the comments, the Coast Guard decided to add a definition of TSMS in § 136.110 rather than just rely on the information contained in part 138 on TSMS compliance.

"Towing Safety Management System (TSMS) Certificate"

We received several comments suggesting two separate definitions of the TSMS certificates be added: One for the owner or managing operator and one for each of the towing vessels found to be in compliance with the TSMS.

The Coast Guard has not defined "TSMS certificate" and does not agree that two separate definitions should be added or that a separate certificate for the company and the towing vessel needs to be issued. TSMS certificates are issued to the owners or managing operators and a list of vessels covered by the TSMS must be maintained, as described in § 138.305.

"Travel Time"

Four commenters, including maritime companies and a professional association, suggested deleting the proposed term "travel time" because it does not appear anywhere else in the regulation. One commenter suggested that the proposed term needs to be amended to clarify the application to daytime operators who commute back and forth to work, not travel to a large commercial tug/barge unit that operates like a self-propelled vessel. Conversely, other commenters suggested that the definition should not include travel back and forth. One company asserted that if the travel time is not included, crewmembers that do not live in close proximity to work will use the majority of their hours traveling.

The Coast Guard agrees that our definition of "travel time" should be deleted from the final rule because we do not use that term in subchapter M.

"Unsafe Condition"

One commenter, citing § 137.325(d), asked the Coast Guard to create a good definition of an "unsafe condition" that can be consistently applied by companies, auditors, and surveyors, as well as the Coast Guard.

The Coast Guard agrees with the commenter's request and has added a definition of "unsafe condition" to § 136.110, which includes observation of a major non-conformity on board a vessel.

"Unsafe Practice"

One commenter suggested that in the definition of "unsafe practice" the list of items that may be subject to significant risk of harm be supplemented by adding "and the vessel" after "property."

The Coast Guard disagrees. A vessel belongs to an organization or person and, therefore, is included by the word "property." We made no changes from the proposed rule based on this comment, but recognizing it can be bad practice to do something even once, we inserted reference to a single action, in addition to a habitual or customary action.

"Western Rivers"

We received several comments, mostly from maritime companies, regarding the proposed definition of "Western Rivers." Several maritime companies suggested that the definition should be consistent with the one in 33 CFR 164.70, which is identical except for it adds waters specified by 33 CFR 89.27 "and such other, similar waters as are designated by the COTP." Commenters also asked that waterways mentioned in 33 CFR 89.27 be included. It was suggested that the consistency in definitions will help avoid new regulations for those vessels operating on the Gulf Intracoastal Waterway. One commenter noted that the proposed definition of "Western Rivers" is inconsistent with the definition in the TSAC report and current regulations. A trade association believed the change in the definition for "Western Rivers" would increase the burden on mariners. A maritime company noted that the NPRM lacks a definition, or a route description in § 136.230, that covers vessels operating in the Inland areas of the waterway system within the Sea Buoy system, which includes the Gulf Intracoastal Waterway. The commenter suggested that Western Rivers be defined to include those vessels operating within the Sea Buoy system.

Based on these comments, the Coast Guard has decided to adopt the existing 33 CFR 164.70 definition of "Western Rivers" which applies to navigation safety regulations for towing vessels.

This is similar to the definition TSAC used in its September 7, 2006 report (USCG–2006–24412–0004). Their definition ended with "and waters connecting or tributary thereto" instead of referencing waters designated by the COTP. Waters specified by 33 CFR 89.25 and 89.27, for inland navigation rule purposes, include all of the connecting and tributary waters specified in TSAC's definition, and our addition of the 33 CFR 89.27 reference includes the Gulf Intracoastal Waterway in the definition. Also, making our definition consistent with the one in 33 CFR 164.70 allows COTPs to designate similar waters.

Multiple factors in 33 CFR 62.27 are considered in the positioning of safe water marks, which are also called "sea buoys." These factors may cause them to be placed seaward or shoreward of demarcation lines. And, while each safe water mark has a plotted position in the Light List available via 33 CFR 72.05–10, unlike demarcation lines in 46 CFR part 7, there are no lines associated with safe water marks. Therefore, we have decided to use the term "navigational demarcation lines" currently used in 33 CFR 164.70.

"Workboat"

One commenter suggested we amend our definition of "workboat" to include "vessels undergoing cleaning or repair," besides equipment, as things that the workboat pushes, pulls, or hauls alongside within a worksite.

The Coast Guard disagrees with the proposed change. However, we have amended the definition of "workboat" to remove the specific listing of things being towed. We believe that the revised definition of workboat and our definition of worksite—which already included a list of certain activities which we amended to reflect the movement of equipment but specifically excluded the movement of barges carrying oil or hazardous material—provide sufficient flexibility to the OCMI to cover operations not specifically listed.

"Worksite"

One commenter suggested that we amend the definition "worksite" so all areas within which workboats are operated over short distances for dredging, construction, maintenance, or repair work, including shipyards, owner's yards, and lay-down areas used by marine construction projects, would not require OCMI designation as worksites. Other worksites may be specified by the OCMI. Further, a maritime company suggested adding the terms "cleaning facilities, fleeting areas" to the definition of "worksite."

The Coast Guard disagrees with these recommendations. We believe it is appropriate for the cognizant OCMI to designate worksites based on the factors and activities listed and their possible impacts on other waterway users. Therefore, we have decided not to adopt the expanded definitions being suggested here. We have made no changes from the proposed rule based on these comments.

Options for Obtaining a Certificate of Inspection

A commenter opposed the option of obtaining certification by annual Coast Guard inspections and recommended deletions of provisions in proposed §§ 136.130, 136.140, 136.145, 136.150, 136.165, and 136.170.

The Coast Guard recognizes that some in the industry view the option for Coast Guard traditional inspections as not having a role in the future of the regulation of towing vessels. We believe that the development of and adherence to a TSMS that is tailored to a company's unique operations and that provides for an authoritative reference for all members of the organization improves safety for the company's vessels. As the TSAC Economic Analysis Working Group Report (USCG–2006–24412–0007) stated, the costs to a small company to implement and maintain an SMS may be more difficult to absorb than it is for a large company. These regulations do not preclude any towing vessel company from adopting a safety management system. However, the structure of subchapter M provides towing vessel companies with flexibility in how to comply with this subchapter.

With respect to the various sections mentioned by this commenter, we have made changes in this final rule. Proposed § 136.130 has been revised and retitled to better depict the purpose of the options it presents for documenting compliance with the requirements of this subchapter and to specifically note that a Certificate of Inspection is obtained following a Coast Guard inspection. We have moved proposed §§ 136.140 and 136.145 into subpart B of part 136—Certificate of Inspection—as amended § 136.210 and new § 136.212. Also, we merged proposed §§ 136.150 and 136.165 into a new § 137.200 to delineate the processes under the Coast Guard inspection option from the TSMS option processes in part 137. The proposed part 137 had laid out the TSMS procedures but was silent on the Coast Guard option. Further, we redesignated and amended proposed § 136.170 as new § 136.202.

A commenter requested an appeal process to permit the immediate review of an inspector's determinations.

The Coast Guard notes that, as we proposed, the appeals process is described in § 136.180. Further, this final rule contains amendments to 46 CFR part 1 that institutes a process for appealing the decisions of TPOs acting on behalf of the Coast Guard.

Requirements for Existing Vessels During Delayed Implementation

In response to comments regarding the cost of requirements in parts 140 through 144, and concern about being able to meet those requirements soon after the rule is make effective, we delayed implementation of nearly all requirements in parts 140 through 144 until July 20, 2018. We made the rule effective July 20, 2016 so that the Coast Guard can begin to apply other subchapter M regulations to review applications from those seeking to become TPOs and to impose deadlines for towing vessels to decide which option to choose—TSMS or Coast Guard annual inspections. We added § 136.172 to ensure that we do not leave a gap after the rule becomes effective but before most requirements in parts 140 through 144 are implemented.

Section 136.172 requires existing towing vessels that will be subject to subchapter M to remain subject to Coast Guard regulations applicable to the vessel on July 19, 2016 until the earlier of two dates: July 20, 2018 or the date the vessel obtains a COI.

Subpart B Certificate of Inspection

We received a comment on proposed § 136.200(d) urging that provisions from Marine Safety Manual Volume II, Section B, Chapter I, referencing 46 U.S.C. 3314 and completing a foreign voyage, should be added to the rule.

As reflected in § 136.200(d), towing vessels issued a COI under subchapter M are fully afforded the foreign-voyage-completion provisions of 46 U.S.C. 3314, Expiration of Certificate of Inspection. We made no changes from the proposed rule based on this comment, but on reviewing § 136.200, we decided to insert a reference to the COI phase-in period in proposed § 136.170 (now § 136.202) in paragraph (a). This insertion is intended to incorporate the date by which the vessel must obtain a COI and thereby limit the statement that the vessel may not operate without having a valid COI onboard to the period after that date. Based on this review, we deleted proposed § 136.225, because it was redundant with § 136.200(c).

A commenter observed that companies choosing the Coast Guard inspection option should not be given a longer period of time to obtain a COI than companies choosing the TSMS option.

The Coast Guard agrees. We have amended, redesignated, and retitled the proposed § 136.170, Compliance for the Coast Guard option, as § 136.202, Certificate of Inspection phase-in period. This section now specifies when COIs are required for towing vessels subject to subchapter M regardless of the option selected. Also, we removed § 136.203 because it is no longer needed given our amendment to what is now § 136.202.

We received several comments on the phase-in process in proposed § 136.203, Compliance for the TSMS option. Several commenters suggested that the requirements for a TSMS and inspection requirement be phased in to allow for the industry to understand the new requirements and identify any specific waivers that may be needed. One commenter favored making sure there is about the same amount of work to be done in each of the 5 years that make up an inspection cycle. Another commenter recommended a provision to extend the schedules in the event of a shortage of approved auditors or inspectors. A professional maritime association suggested that a phase-in approach will assist in the transition for vessel operators and auditors and reduce the strain on shipyards as they manage extensive drydocking that will occur while vessels await their inspections.

The Coast Guard generally agrees with these concerns. As discussed in response to an earlier comment, the Coast Guard has amended the requirements in proposed § 136.170 to set the same timetable for obtaining a COI regardless of which option the vessel owner or managing operator selects, and we have removed § 136.203, which had a separate timetable for those selecting the TSMS option. The phased approach in § 136.202 distributes the work load over a 6-year period from the effective date of this final rule. The Coast Guard has crafted this rule to phase in towing vessels over time for numerous reasons including spreading costs and workload over time. Section 136.202 provides a broad phase-in period for companies that choose either the Coast Guard or TSMS compliance option. As we stated in the NPRM, it will be up to six years before some vessels subject to subchapter M will need to obtain a COI. However, we do not agree that we need to add a provision to extend the schedules more than we have done already in this final rule. We believe that there will be sufficient TPOs available within the new prescribed timeframes to conduct subchapter M audits and surveys. Similarly, the Coast Guard is preparing to have enough inspectors available to meet the demand for Coast Guard inspections within the new prescribed time frames.

A maritime company offered a phase-in timeline that depends on separate certificates for a company and their vessels. The commenter suggested that within 2 years of the rule's effective date a third-party would conduct an external management audit of a company and issue a Towing Company Safety Management System Certificate. Then during the following year, a third party would conduct external vessel audits of 25 percent of company's fleet and issue each vessel a Towing Vessel Safety Management System Certificate. Similar steps would be taken in subsequent years until in the sixth year, when all vessels would have to obtain COIs.

As we noted in response to another comment, we disagree with the suggestion that two certificates should be issued instead of one TSMS certificate. We therefore decline to adopt a schedule based on the issuance of separate certificates for a company and the company's vessels.

In a submission to the docket, the National Transportation Safety Board requested the prompt publication of the final rule to avoid any further delay in regulating the safety of this largely unregulated sector of the commercial maritime industry. The same commenter felt that the proposed 6-year implementation period should be shortened.

We received a comment from a towing company suggesting that a shorter compliance period be applied to those operators who have not previously participated in the Uninspected Towing Vessel Bridging Program. The same commenter expressed the importance of consistent application of the final rule to all vessel operators. The commenter explained that by allowing some operators to bypass the requirements market rates will be affected, which will have a serious effect on small operators.

The Coast Guard concurs with the desire to publish this rule promptly and, in general, to apply it consistently to all vessel operators subject to subchapter M. We have explained why certain requirements are only applicable to new towing vessels and why excepted vessels do not need to comply with certain requirements. We disagree with shortening the implementation period across the board or, specifically, for those companies that did not participate in the Uninspected Towing Vessel Bridging Program, because it was a voluntary program. We believe our implementation period is appropriate for this rule, which establishes both a safety management system option involving TPOs and new requirements for more than 5,000 towing vessels.

We received a few comments on proposed § 136.205, which identifies what the COI will describe. One commenter noted that minimum manning requirements in the COI, as required under this provision, should be allowed to be different for different types of towing vessels. Another commenter asked how "minimum manning" is to be determined. Another commenter requested allowing for multiple minimum manning standards depending on the route. A commenter suggested that this rulemaking should clarify the number of required crewmembers and allow the towing vessel to be operated by a single crewmember in certain circumstances.

Existing laws and regulations specify minimum levels of manning for towing vessels. As stated in § 140.205, manning regulations are contained in part 15 of this chapter and vessels must be manned in accordance with the case specific requirements included in the COI. As stated in 46 CFR 15.705, the minimum safe manning levels specified in a vessel's COI take into consideration routine maintenance requirements and the ability of the crew to perform all operational evolutions, including emergencies, as well as those functions which may be assigned to persons in watches. The OCMI is empowered to establish a level of manning for a vessel above the minimum levels prescribed by law and regulation, based on the vessel's nature of operations and other parameters, including route.

One individual was unclear about whether proposed § 136.140 applied to those who have an approved TSMS, as well as those who choose the Coast Guard inspection option. One company asked for clarification of the sequence of events for COI issuance.

As noted above, our proposed § 136.140, Application for a Certificate of Inspection (COI), is incorporated into amended § 136.210 and applies to all vessels subject to subchapter M. Regardless of the inspection option chosen, the owner or managing operator must submit an application for inspection to the cognizant OCMI where the inspection will take place. As specified in § 136.130(d), the application should indicate which option the owner or managing operator is selecting.

We amended § 136.210 to make it clear how and when to apply for the initial COI. In our proposed § 136.140, we specified deadlines for renewing a COI, but not those for obtaining the initial COI. Our amended § 136.210 identifies the application and scheduling deadlines for the initial COI and reflects the same application and scheduling lead times for renewing a COI: Submit the application at least 30 days before the vessel will undergo the initial inspection for certification, and schedule an inspection for the initial certification with the cognizant OCMI at least 3 months before the vessel is to undergo the inspection for certification. Amended § 136.212 sets forth the process of receiving a Coast Guard inspection at least once every 5 years and for receiving a new COI after being inspected by the Coast Guard.

We received one comment recommending that the last line of proposed § 136.145(b), now redesignated as § 136.212(b), which describes the nature of inspections, should specify that inspection of the vessel's pollution prevention systems and procedures should be in accordance with any Memorandum of Understanding (MOU) between the Coast Guard and the Environmental Protection Agency.

The Coast Guard disagrees with this recommendation because we do not view the proposed amendment as either necessary or desirable. We believe that the current language that the "inspector will also examine the vessel's pollution prevention systems and procedures" is appropriate. An inspection involves an examination of a vessel to determine whether it is in compliance with applicable regulations or other legal authorities. There are existing pollution prevention regulations that would pertain to inspected towing vessels that are not covered by any Coast Guard MOU with the EPA. We have not made any changes in this final rule based on this comment.

An individual and a company requested clarification of the inspection frequency in proposed § 136.145. Two companies suggested that frequency and level of inspection should be accomplished on a risk basis.

In this final rule, § 136.145 was renamed § 136.212 and states that towing vessels subject to subchapter M will be inspected at least once every 5 years. Towing vessels choosing the TSMS option would be subject to annual surveys between those inspections, while towing vessels choosing the Coast Guard Inspection option would be inspected annually. See §§ 137.200, 137.205, and 137.210.

A company expressed concern about whether the Coast Guard would have resources to hire a sufficient number of competent vessel inspectors for convenient scheduling for the company, including drydock scheduling.

The Coast Guard is prepared for the estimated demand for annual inspection from owners and managing operators selecting the Coast Guard annual-inspection option. The Coast Guard will closely monitor the demand for inspections and make resource adjustments as necessary. However, based on our reassessment of Coast Guard resources, we have removed the option in proposed § 136.105(b) for vessels not covered by subchapter M to request application of this part.

Another company requested that the Coast Guard do everything possible to ensure that Coast Guard inspections and third-party audits or load line surveys are coordinated to prevent an undue burden on industry.

The Coast Guard agrees there are benefits to coordinating audits, surveys, and inspections, and will attempt to do so. However, there may be times when coordination is not possible due to scheduling and operational constraints.

An association asked that the Streamlined Inspection Program be added as an alternative inspection process.

The Streamlined Inspection Program, available under 46 CFR part 8, is an available option to obtain a renewal of a COI. If using that option, the owner or managing operator must comply with the procedures identified in part 8. We do not need to add text to subchapter M for this part 8 option to be available to vessels subject to subchapter M.

An individual suggested we eliminate the term "uninspected towing vessel," because towing vessels might not be inspected currently for structural construction, but are regulated and are subject to Coast Guard rules for daily operation.

The Coast Guard agrees that all towing vessels are regulated by the Coast Guard to some extent but are not necessarily inspected. We have chosen to continue to identify those towing vessels not subject to subchapter M, and that are subject to subchapter C, as uninspected towing vessels.

We received several comments on proposed § 136.210(b)(3)(i), which would require that an application for initial certification include objective evidence that the towing vessel's structure and stability comply with applicable requirements. Commenters recommended that for existing towing vessels without a stability letter, an audit report noting that the towing vessel is being maintained and operated in a manner that does not compromise its watertight integrity or stability should be sufficient to satisfy this requirement. Others contended that stability is not an issue on inland waterways, and that there should be no stability requirements for Western Rivers towing vessels.

The Coast Guard has amended § 136.210 to more clearly identify what the owner or managing operator needs to provide the Coast Guard for both the Coast Guard and TSMS options with the application for inspection. Note that for the TSMS option the application must now include objective evidence of having a TSMS compliant with part 138 and that the vessel meets the requirements of this subchapter.

Structural requirements for existing vessels are addressed in § 144.200. To satisfy that regulation, if a vessel is not built, equipped, and maintained to conform to the rules of a recognized classification society appropriate for the intended service and routes, the applicant must provide evidence that the vessel has been both in satisfactory service insofar as structural adequacy is concerned and that the vessel does not cause its structure to be questioned by either the OCMI or TPO. Stability requirements for existing vessels are addressed in § 144.300 and under this provision, for those vessels without a stability document, documentation of operating history—for example through audit reports—is one option to meet § 144.300 requirements.

The Coast Guard believes that stability is a concern on any vessel, regardless of service or operating area. Towing vessels must be maintained and operated so the stability of the vessel is not compromised.

Proposed § 136.210(b)(5) (redesignated as § 136.210(a)(2)(ii)) would require a description of any modification to the vessel. Some commenters suggested that the provision should be limited to major or substantial modifications to the design and construction of the towing vessel.

The Coast Guard disagrees with these suggestions. The Coast Guard needs to be aware of changes and modifications made to inspected vessels. We will use this information to determine if a single change or incremental changes made to a vessel over time will affect a vessel's suitability for its route or service. However, replacements in kind, as defined in this subchapter, are not considered modifications. We have made no changes from the proposed rule based on these comments, but we did clarify that a description of any modification is only necessary when renewing the COI.

With respect to proposed § 136.215, which describes the period of validity of a COI, we received two comments urging the Coast Guard to add language to the rule so that noncompliance with a TSMS would not immediately result in the invalidation of the COI.

The Coast Guard acknowledges that § 136.215 states that if the TSMS certificate expires or is revoked, then the towing vessel's COI becomes invalid. Non-conformities or major non-conformities found during surveys or audits do not automatically invalidate the TSMS or the COI. However, deficiencies or non-conformities that are egregious could result in the OCMI removing the COI from the vessel. Ultimately, the status of the COI is determined by the OCMI. Based on the extent of the deficiencies or non-conformities found during an inspection, survey, or audit, the OCMI has various opportunities to work with the company to bring the vessel into compliance without suspending or revoking the TSMS certificate as specified in § 138.305.

Commenters noted that proposed § 136.220 would require the original COI to be framed under glass and posted onboard the towing vessel. We received many comments noting that this requirement is outdated in this electronic age. These commenters suggested that the provision should simply state that a current copy of the COI must be on the towing vessel and available for inspection. Some of them added that the original COIs should be kept in a central location.

In paragraph (b) of § 136.220 we provide the alternative of keeping the COI readily available onboard in a weathertight container. Our § 136.220 implements 46 U.S.C. 3312, which requires that the COI be displayed on the vessel but allows for alternatives as we have provided in § 136.220(b). We do consider an open boat as an example of when it is impracticable to post a COI, but we removed this example from the text of § 136.220(b) to place more focus on the statutory language. We require the original COI to be on board, rather than a copy, because there is only one original and removal of the COI from the vessel is one means the OCMI uses to prevent the vessel from getting underway if it is unsafe for it to do so.

We received one comment on proposed § 136.230(a) noting that the route endorsements on COIs issued to towing vessels should be consistent with the route designations on the COIs of the tank barges being moved.

The Coast Guard notes that routes on barges and towing vessels are not interdependent. The towing vessel and its tow is limited to the most restrictive route of the towing vessel or any vessel in the tow. The Coast Guard encourages the company to match route-appropriate barges and towing vessels. However, we made no changes from the proposed rule based on this comment.

In reviewing § 136.235, which covers Certificate of Inspection amendments, we saw the need to distinguish procedures for a vessel seeking a COI amendment based on which option the vessel selected. We amended § 136.235 accordingly. We also added a provision stating that the OCMI may need to conduct an inspection before issuing an amended COI.

We received a comment on proposed § 136.235, suggesting that the term "towing vessel" should replace "vessel" in paragraphs (b) and (c)(2) of that section. This commenter also noted the same edit and other editorial changes for various sections throughout the proposed rule language.

The Coast Guard disagrees that there is a need to change every use of the word "vessel" to "towing vessel" when we mean towing vessel. As with § 136.235, where we initially use the term "towing vessel," and it is clear from the context that our use of the word "vessel" refers to towing vessel, we do not see a need to repeat "towing vessel." We have been careful to always use "towing vessel" when referring to a towing vessel in sections where we also use the term "vessel" to mean something other than the towing vessel—*e.g.,* in our definition of "bollard pull" in § 136.110.

Proposed § 136.240 addresses permission to proceed to another port for repairs. We received two comments expressing support for the provision. Another commenter suggested that the vessel should be able to proceed for repairs even if there is noncompliance with the COI.

The Coast Guard notes that under § 136.240, an owner or managing operator must notify the cognizant OCMI in whose zone the non-compliance occurs or is discovered before the vessel proceeds and also must notify any other OCMI zones through which the vessel will transit, and that the cognizant OCMI may require inspection of the vessel by a Coast Guard Marine Inspector or examination by a surveyor from a TPO prior to the vessel proceeding. We clarified § 136.240(a), which we intended to apply only to vessels with a TSMS, as the TSMS may address the necessary conditions under which the vessel may safely proceed to another port for repair. Accordingly, we amended paragraph (a), made corresponding amendments to paragraph (b), and inserted headings for all three paragraphs in § 136.240.

We received one comment that recommended changing "another port" to "next port of call," in § 136.240 and confining the conditions requiring a Permit to Proceed to situations that affect safety or seaworthiness. Other commenters noted that the master, not the owner or managing operator, should be the person deciding if the trip for repairs can be completed safely.

The Coast Guard disagrees with these recommendations. The term "next port of call" may be too restrictive and may undermine the authority of the OCMI or the vessel's master in determining where the vessel may safely proceed to be repaired. Regarding the last comment, we do list "owner, managing operator, or master" when specifying who must make a judgment that the trip can be completed safely. We believe § 140.210(b) addresses the commenter's concerns by specifying that if the master believes it is unsafe for the vessel to proceed, he or she must not proceed until it is safe to do so. We have made no changes from the proposed rule based on these comments.

One commenter stated that in § 136.240 it appears that a company must notify the OCMI any time a vessel must be moved to accomplish a repair not specifically addressed in the TSMS. The commenter stated that to completely comply it seems that all possibilities must be addressed in the TSMS or the OCMI will be inundated with requests for a problem not involving seaworthiness. We do not believe the commenter's characterization is accurate.

Companies using the TSMS have the opportunity to tailor their system to address conditions the company anticipates may occur that would cause the vessel not to be in compliance and the necessary conditions under which the vessel may safely proceed to another port for repair. Under § 136.240(b), if the condition is not addressed in the TSMS, the owner, managing operator, or master can request permission to proceed from the cognizant OCMI in whose zone the non-compliance occurs or is discovered. A Permit to Proceed would only be needed when a repair is needed and the vessel is no longer in compliance with its COI. Minor repairs that do not affect the safety of the vessel (including seaworthiness) or its machinery would most likely not be considered issues that would invalidate the COI, and therefore would not necessitate a Permit to Proceed. We have made no changes from the proposed rule based on this comment.

Proposed § 136.245 addresses permits to engage in an excursion. We received a comment pointing out that a permit to carry an excursion party is required when the towing vessel carries more persons than allowed by the COI, but under proposed § 136.205, a COI indicates that minimum number of persons, not the maximum.

The Coast Guard notes that § 136.205 does not reflect all the information contained on the COI. The COI is a document issued under 46 U.S.C. 3309 that is in a form prescribed by the Commandant. Currently, it lists the minimum number of crew, those in addition to crew, and the total persons allowed on board. We have amended our description of the COI in § 136.205 to include "total persons allowed onboard." Separately, and upon reviewing proposed § 136.205 and a similar description in 46 CFR 2.01–5, we amended § 136.205 to improve its description of a COI's listing of safety equipment and appliances required to be onboard. Also, in further reviewing § 136.245 we saw the need to amend it to include the case where a vessel chooses the Coast Guard option or the TSMS does not address excursion parties.

Several commenters expressed the opinion that having guests such as vessel owners, service technicians, auditors, trainers, or crew changes for other vessels should not require a special permit. Other commenters opposed the proposed requirement to give 48 hours' notice to the OCMI because the need for an excursion party, such as customers or vendors on a towing vessel to see a particular operation, will often arise spontaneously. One commenter was unclear where to obtain a permit. We received a comment requesting the addition of a provision to require the COI to identify the number of crewmembers and persons in addition to crewmembers allowed onboard, taking into account overnight accommodations, lifesaving equipment, etc.

The Coast Guard has added definitions for "excursion party" and "persons in addition to the crew" in § 136.110. Vendors/customers carried onboard would not constitute an "excursion party"; these individuals would be carried as "persons in addition to crew" as permitted by the COI. We also amended § 136.210 so that it prompts owners and managing operators applying for an initial COI to include documentation on the number of persons in addition to the crew they would like the OCMI to include in the COI.

We received one comment on the proposed requirement in § 136.250 for load lines for vessels operating outside the boundary line. The commenter questioned how the requirement applied to the Great Lakes, in which there are no boundary lines.

The Coast Guard notes that boundary lines are identified in 46 CFR part 7 and that load line requirements for the Great Lakes are provided in 46 CFR part 45. We edited § 136.250 to make it clearer that it applies to all towing vessels on the Great Lakes, and also reorganized § 136.250 into a table for greater clarity.

G. Vessel Compliance (Part 137)

We received numerous comments on part 137, and we made several changes to the overall structure and content of this part. In subpart A we removed the definitions section, as we have removed similar definition sections in other parts, because it simply noted that subchapter M definitions in § 136.110 apply to the part. We also deleted proposed § 137.115 because the substance of this provision is contained in § 136.210.

We received two comments on proposed § 137.120, which describes responsibilities for compliance. One commenter supported the provision that the owner and managing operator are responsible for ensuring compliance and suggested that when deficiencies and non-conformities are identified during vessel inspections and TSMS audits and fines imposed against a company, those action letters should be addressed to the person described in § 137.120, thereby ensuring the person at the top is fully aware of the vessel's conditional status.

The Coast Guard concurs that § 137.120 holds the owner and managing operator responsible for compliance with subchapter M and other applicable laws and regulations. It also specifies that non-conformities and deficiencies must be corrected in a timely manner; we have deleted the stated purpose for this corrective action requirement because it was unnecessary regulatory text. We will consider the commenter's suggestion for where to send notification of non-compliance but see no need to change the regulations.

Under § 137.130(c), we leave discretion with the owner and operator to specify in the TSMS procedures for reporting and correcting non-conformities and deficiencies. We have reorganized § 137.130 to make it easier to read and understand the requirements of the two programs for compliance under the TSMS option.

Another commenter requested that standard forms be provided to assist small companies with compliance, and that the Coast Guard should provide guidelines to OCMIs for simple inspections of towing vessels operated by companies too small to have staff dedicated to regulatory compliance, and that the Coast Guard should provide standard forms similar to U.S. Army Corps of Engineers usage reports which can be submitted to the local sector OCMI.

Regarding the second commenter, the Coast Guard does not plan to prepare a specific form, but we have prepared a Small Entities Guide (available in the docket) for this final rule and we do plan to provide guidance to OCMIs on implementing this rule. We will develop where necessary and appropriate inspection and compliance checklists, job aids, and guides for our OCMIs and make them available to the public. We made no changes from the proposed rule based on these comments.

We removed § 137.125 because it simply states that if a TSMS is applicable to the vessel it must have provisions for compliance with part 137. Section 137.125 is unnecessary because part 138 addresses what the TSMS must cover regarding all subchapter M requirements.

The new structure of this part, specifically in subparts B and C, presents together the discussion of inspections and surveys conducted under the both Coast Guard and TSMS options. As mentioned in the previous section of the preamble, we moved the discussion of inspections under the Coast Guard option from proposed §§ 136.150 and 136.165 into subpart B of this part. We also added a Coast Guard option section in subpart C of this part. In subpart C, we rearranged the order to place the discussion of drydock intervals first and then describe the Coast Guard and TSMS options. In response to comments we changed the term "periodic survey" to "external survey program" and the term "audit program" to "internal survey program" throughout the rule, including in the headings for §§ 137.205 and 137.210. We also defined these terms in § 136.110 and added a reference to them in § 137.130.

An individual disagreed with the Coast Guard's proposed 5-year inspection for vessels under TSMS. The commenter suggested that like vessels under SOLAS, an annual verification examination should be conducted.

In the NPRM, we did state that at the vessel level, towing vessels operating under the TSMS option would receive audits and surveys by a TPO, in addition to the Coast Guard conducting compliance examinations at least once every 5 years, along with additional random compliance checks based on risk (76 FR 49978, Aug. 11, 2011). While some vessels operating under a TSMS may be inspected by the Coast Guard once a year, we do not feel that annual Coast Guard inspections are necessary given the audit and survey requirements for vessels with a TSMS, along with our oversight of that system.

We received three comments objecting to the term "seaworthiness" proposed in § 136.150(a)(4), which we have reorganized into § 137.200. They noted that the appropriate term, especially for Western River towing vessels that don't go to sea, is "fit for the service for which it was intended" or "suitable for its intended route." A commenter noted that proposed § 136.150(a)(2) (now § 137.200(b)) would require a more detailed inspection if an inspector finds deficiencies or determines a major change has occurred, and recommended we set up boundaries on the open-ended term "deficiencies," such as "deficiencies of sufficient number or severity," and that we delete the "major change" provision.

The Coast Guard partially agrees with these recommendations. We consider "seaworthiness" to be an appropriate term for considering the condition of the vessel and note that the term is used in the *Riverman's Lexicon (Lehman)*, a noted publication specific to the Western Rivers. However, we have added a reference to fitness for route and/or service to further clarify the intent in the paragraphs where we use the term "seaworthiness": §§ 137.200(d), 137.300(b), and 137.335(a)(1).

We define the term "deficiency" in § 136.110 to mean "a failure to meet minimum requirements of the vessel inspection laws or regulations," and we do consider it appropriate to call for a more detailed inspection if deficiencies or a major change to the vessel are found. A major change would include a major conversion but would also capture other changes such as changes that may affect the operational safety of the vessel or fitness for route or service.

A commenter asked us what constitutes a "visit" as opposed to an "inspection" or an "audit."

The Coast Guard may engage in visits to TPOs, as discussed in § 139.160, to ensure compliance with this rule. The Coast Guard notes that in the preamble of the NPRM we stated that, as part of our oversight of those organizations, we would conduct random oversight visits to the offices of TPOs that conduct TSMS audits and surveys. The Coast Guard also clarifies the procedures for such visits. The Coast Guard will provide notice to the employer 48 hours in advance of any site visit, unless the visit is in response to a complaint or other evidence of regulatory non-compliance (see § 139.160). In response to an earlier comment above, we have discussed the distinction between inspections and audits. We have made no changes from the proposed rule based on this comment.

One commenter expressed the opinion that annual and periodic Coast Guard inspections under proposed § 136.150 would overly tax the system and not effectively utilize Coast Guard inspection talent.

On page 32 of our Preliminary Regulatory Analysis and Initial Regulatory Flexibility Analysis (USCG–2006–24412–0002) we assumed that 1,340 towing vessels from small companies with fleets of five or fewer vessels would select the Coast Guard annual-inspection option. Based on the many comments submitted about the benefits of a TSMS, we still anticipate that many owners and operators of towing vessels, particularly those from companies with large fleets, will select the TSMS option. The Coast Guard will closely monitor the demand for inspections and will make resource adjustments as necessary.

With respect to the periodic survey provision in proposed § 137.205, we received one comment favoring an audit by a third party every 3 years rather than every year.

The Coast Guard disagrees with this recommendation. We believe that 3-year intervals would allow unsafe conditions and other problems to go undetected for too long. The annual compliance activities are consistent with other classes of inspected vessels including those that implement other safety management systems. To clarify when the annual survey under § 137.205 must be conducted, we amended § 136.110 by adding a definition of "anniversary date" tied to the expiration date of the COI or TSMS certificate and we amended § 137.205(a)(3) by referring to the COI's anniversary date. We also amended other sections that referenced anniversary issuance date to read "anniversary date."

We received one comment asking whether participation in an ISM program and issuance of a vessel's Safety Management certificate would meet the requirements in proposed § 137.210, which is now titled Internal survey program. Section 138.225 clearly states that ISM Code compliance meets the safety management requirements in this subchapter. To clarify our reference in § 138.225 to such vessels being deemed in compliance with "these" requirements, we amended § 138.225(a) in this final rule to replace "these requirements" with "TSMS-related requirements in this subchapter." This clarifying edit is consistent with our statement in the NPRM preamble that the Coast Guard is proposing to accept compliance with the ISM Code, an internationally mandated safety management system for vessels subject to the SOLAS, as satisfying TSMS-related requirements. We implemented the ISM Code through regulations in 33 CFR part 96 and view the processes and procedures in place for compliance with the ISM Code as sufficient to ensure that towing vessels comply with TSMS-related requirements in subchapter M.

This commenter also stated that proposed paragraph (e) of § 137.210 appeared to indicate the audit can be conducted by the operating company since the OCMI may require the attendance of an approved third party. He asks if our intent is to allow the operator to conduct these audits in lieu of periodic (annual) audits by a third party.

Yes, it was our intent, which is reflected in this final rule, to allow operators to conduct some surveys and audits. We believe the commenter meant to reference paragraph (e) of § 137.215. Section 137.215 deals with conducting surveys and its paragraph (e) states that the OCMI may require the attendance of an approved third party "to assist with verifying compliance with this part." We deleted § 137.210(c) to remove the requirement that a towing vessel must successfully complete an initial audit by a TPO before it may be placed into an internal survey program. Section 137.210 contains the provisions that allow for owners and managing operators to conduct annual surveys under the internal survey program. For the purposes of auditing under the TSMS option, there is also an internal audit program described in part 138 that allows the owner or managing operator to conduct annual internal management audits. We note that we have amended § 137.210 by adding paragraph (a)(8) requiring that the TSMS contain procedures for assigning personnel to conduct surveys.

We received several additional comments on the provisions in proposed § 137.210. A few commenters suggested that "audit program" should be changed to "program of continuous assessment" and that the requirement in proposed paragraph (b) for timing of the surveys should provide that surveys may be conducted within 3 months of the anniversary date of the previous survey.

Section 137.210(b) specifies that the interval between successive surveys of any item must not exceed 1 year. The words "unless otherwise prescribed" at the end of that paragraph modify the reference to not being required to survey items as one event. The internal survey program allows the owner or managing operator to assess the required items through a series of surveys, resulting in maximum flexibility in conducting vessel operations while fulfilling regulatory requirements. We want to preserve the flexibility afforded to the owner or managing operator that was intended by the continuous survey aspect of the internal survey program, and view the 1-year-from-successive-survey requirement as the best means of assuring that required surveys under this flexible system are conducted. Therefore, we did not adopt the commenter's suggestion to amend § 137.210 to require that surveys be conducted within 3 months of the anniversary date of the previous survey.

One commenter recommended that proposed § 137.210(a)(3) on identification of items that need repairs should allow for the issuance of Form CG–835 deficiency tickets.

The Coast Guard agrees that the list of items for inspection and repair should include any existing deficiencies listed by the Coast Guard on Form CG–835, Notice of Merchant Marine Inspection Requirements. We have amended § 137.210(a)(3) accordingly, and also added these related items: noted survey deficiencies, non-conformities, and other corrective action reports.

Noting actions listed in proposed § 137.210(d) (now § 137.212), which explains the OCMI's authority to require audits, surveys, and removal from the TSMS option, one commenter called for the Coast Guard to establish and use an industry advisory committee for each OCMI to advise him or her based on impartial industry knowledge. Another commenter recommended peer review to verify the quality of work performed by auditors.

The Coast Guard disagrees with the suggestion that we establish and use an advisory committee for each OCMI. The Coast Guard has established requirements for auditors to ensure the competency of auditors in TPOs at 46 CFR 139.125 and 139.130. The Coast Guard retains oversight and administrative control of TPOs and through them, their auditors. See 46 CFR 139.135, 139.145, 139.150, and 139.160. We do not see the need for an additional level of review of their work. We developed these rules in coordination and consultation with TSAC, a Federal Advisory Committee whose members are appointed by the Secretary of Homeland Security to advise, consult with, and make recommendations to the Secretary on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. Further, OCMIs work with Harbor Operations Committees and conduct regular meetings with port stakeholders and other industry representatives at the Sector level to discuss maritime issues, including those related to towing vessels. We made no changes from the proposed rule based on this comment, but we did clarify the reference to a "change in ownership" in proposed § 139.125(c)(4) (now § 139.125(d)(4)) that would cause an approval for a TPO to expire by inserting the words "as defined in § 136.110" after the term.

One commenter expressed concern about a lack of qualification requirements for the individual doing the surveys under the § 137.210 internal survey program, beyond those written into the TSMS. He recommended that the rule require the individual conducting surveys under § 137.210 to have comparable qualifications to the third-party surveyor.

The Coast Guard has amended § 137.210 by adding paragraph (a)(8) requiring that the TSMS contain procedures for assigning personnel to conduct surveys. As suggested by the commenter, under § 138.220(c)(1) survey requirements must be specified in the TSMS. We have amended § 138.220(c)(1) to make it clear that the TSMS must list the minimum qualifications of a surveyor if the surveyor is not from a TPO. We also removed § 138.220(c)(3) and (e) because their proposed requirements are covered in elsewhere in § 138.220.

We received two comments on proposed § 137.215, which describes the general conduct of a survey. One commenter noted that proposed paragraph (b)(3) would require observation of drills and training, but periodic surveys are typically performed while the towing vessel is in drydock or on a railway, and crews are generally not on board.

The Coast Guard disagrees with the commenter's premise that periodic surveys under this subchapter will take place in a dry dock. At least portions of surveys under § 137.215 will require that the vessel is dockside or underway to complete adequate operational assessment of equipment contained in the scope of § 137.220.

However, the Coast Guard agrees with the commenter that a surveyor would not traditionally be expected to observe the performance of a drill by the crew. We have amended § 137.215 to reflect that the surveyor would focus on the vessel's structural, electrical, and mechanical systems, and equipment, including those used in drills—for example, davits, cranes, pumps, and lifesaving equipment. These functions could be performed while in drydock or without the crew present. It is the auditor who will focus on the operational performance of the crew to assess the competency in the performance of the assigned roles. For such an audit, the crew must be present and the vessel must be ready to demonstrate the performance upon request. The Coast Guard has amended §§ 138.405(d) and 138.410(c), conduct of internal and external audits, assigning auditors the responsibility to witness drills.

Another commenter requested a change to proposed paragraph § 137.215(c) which he felt created an unnecessary loophole. He recommended deleting it or revising it to read: "While all the items listed in § 137.200 must be surveyed for all vessels regardless of their condition, vessels and equipment found to be in poor condition may be required to undergo more stringent examinations in order to satisfy the attending surveyor."

The Coast Guard agrees that § 137.215(c) should be amended to address this concern. We added language to § 137.215(c) to ensure that survey standards in § 137.215 are met and to require an expanded examination by the surveyor when he or she finds multiple deficiencies indicative of systematic failures. Regarding the items to be surveyed, § 137.215(b) clearly states that the survey must address all items in § 137.220.

We received several comments on the scope of surveys in proposed § 137.220. Some of the commenters focused on three requested changes: Clarification that gas-freeing prior to entry into confined spaces, such as fuel tanks, is not required; allowing verification of drills to be done using a review of documentation; and limiting the inspection of watertight doors to those that were required to be installed.

As discussed in § 137.330(b), fuel tanks need not be cleaned out and internally examined if the general condition of the tanks is determined to be satisfactory by external examinations. While the Coast Guard does not agree that crew competency can be verified by just reviewing records of required training and drills, we have removed the requirement for witnessing drills from the survey portion of the rule and have moved it to the audit requirements in §§ 138.405 and 138.410. Any watertight fittings that crews rely on for watertight integrity and vessel safety should be operational and subject to survey.

One commenter noted that § 137.220 should be amended to clarify that a topside exam can be conducted in segments and need not be done as a discrete event.

Section 137.220 describes the scope of the survey which would apply under either the § 137.205 or § 137.210 program. For those choosing the § 137.210 internal survey program to demonstrate vessel compliance, the Coast Guard makes it clear in § 137.210(b) that the owner or managing operator is not required to survey the items as described in § 137.220 as one event, but may survey items on a schedule over time, provided that the interval between successive surveys of any item does not exceed 1 year, unless otherwise prescribed. The Coast Guard believes that § 137.210(b) provides clear guidance that an owner or managing operator of a towing vessel may select to have surveys done during multiple events. In contrast, the § 137.205 external survey program calls for one event, an annual survey, and not successive surveys to survey the items described in § 137.220. The Coast Guard has not made any changes from the proposed rule in response to this comment.

Another commenter recommended that we eliminate the term "rescue boat" from the rule, which we used in proposed § 137.220(g)(6) when identifying the scope of items to be examined and also in crew safety regulations in part 140 of the NPRM. He notes this change would avoid confusion between the terms "skiff," "survival craft," and "rescue boat."

The Coast Guard agrees that the use of the term "rescue boat" in this rule could cause confusion. We did not propose that subchapter M require towing vessels to carry rescue boats, so to avoid confusion, we have removed the references to rescue boats in §§ 137.220 and 140.405. We did, however, leave instruction and drill requirements in § 140.420(d)(4) for launching and using a rescue boat if a towing vessel has one installed, and have defined rescue boat as described earlier in this preamble.

One commenter objected to a § 137.220(g) requirement for towing vessels to conduct a man-overboard drill, simulated under emergency conditions. The commenter noted that towing vessels on the Great Lakes should not have to comply with standards not applied to "self-propelled lakers", that is, other self-propelled vessels, on the Great Lakes.

The Coast Guard disagrees and did not make a change from the proposed rule based on this comment. We seek to promote safe vessel operations for all towing vessels and we have casualty data that indicates that falls overboard is one of the main contributing factors to crew member fatalities in this industry. As detailed in § 136.105, the Coast Guard has provided a number of exceptions for towing vessels based on the known risks involved in their specific operation. The Coast Guard has declined to provide blanket exemptions for entire operating areas such as lakes, bays and sounds, rivers, or as the commenter suggests, the Great Lakes. The Coast Guard has evaluated the hazards of towing vessel operations in each of these particular areas and determined that the application of these regulations to certain towing vessel operations in each of these areas would improve safety to life, property and the environment.

In addition, noting the language currently in 33 CFR 164.01(b) and the "33 CFR part 164, if applicable" language in proposed § 137.220(j)(5), a commenter raised concerns about determining when and whether a given towing vessel is subject to 33 CFR part 164 navigation safety regulations.

We did not propose to amend 33 CFR part 164, and neither § 164.01 nor other sections in that part use "inspected" or "uninspected" as criteria for applicability, so this rule does not alter the applicability of 33 CFR part 164 for towing vessels. To see what requirements in 33 CFR part 164 may apply to a given towing vessel, one needs to review all of § 164.01, not just paragraph (b) which is focused on towing vessels. For example, § 164.01(d) points to automatic identification system requirements without reference to type of vessel. We made no changes from the proposed rule based on this comment.

We received two comments on proposed § 137.300, a section on documenting compliance with drydock and internal structural surveys requirements. One of these commenters referenced § 136.130(d) in combination with § 137.300 when requesting clarification about the scope and frequency of such surveys. Both § 136.130(d) and redesignated § 137.300(a) make it clear that the frequency does not change based on which option is chosen to obtain a COI. Further, we amended § 137.300(a) to clearly indicate that the drydock and internal structural intervals start after the issuance of the initial COI. Paragraphs (a)(1) and (2) of § 137.300 clearly state the intervals for drydock and internal structural surveys. Finally, we established separate sections for vessels using the TSMS option (§ 137.305) and those using the Coast Guard inspection option (§ 137.302) to document compliance with drydock and internal structural survey requirements.

Regarding the scope of drydock and internal structural surveys, whether a vessel provides objective evidence using the external survey option under § 137.310 or the internal survey option under § 137.315 requirements (see these options referenced in redesignated § 137.305(a) and (b)), the scope of the survey is clearly laid out in § 137.330. Also, § 137.325 contains a comprehensive inventory of items to be reviewed during the examination. The Coast Guard believes that the numerous items identified in § 137.325, in addition to the supporting § 137.330, provide sufficient information to address the commenter's concerns. As noted above, redesignated § 137.300 makes clear that regardless of the option chosen to obtain a Certificate of Inspection, each towing vessel must undergo a drydock and internal structural examination at the prescribed intervals after the issuance of the initial COI. Accordingly, we have amended the § 137.325 heading so that it no longer references just surveys for the TSMS option. Throughout amended subpart C of part 137 we have changed the term "survey" to "examination" when referring to the drydock and internal structural examinations.

A person commenting on proposed § 137.300(c), which called for objective evidence of compliance with certain load line requirements in subchapter E, noted that load lines are not applicable to inland towing vessels. We agree that load lines are not applicable for situations where the inland towing vessel never operates on the Great Lakes or outside the Boundary Lines. But under § 136.250, the load line requirement in subchapter E would apply to certain towing vessels 79 feet or more in length that normally operate on inland waters but that sometimes operate on the Great Lakes or outside the Boundary Lines. In this final rule, we moved requirements for documenting compliance with load line and other requirements in this subpart to § 137.305 for vessels choosing the TSMS option and to § 137.302 for vessels choosing the Coast Guard inspection option. We recognize that 46 CFR 42.03–5(b)(1)(v) in subchapter E excepts vessels that operate exclusively on inland waters and that do not engage in coastwise or Great Lakes voyages from load line requirements. However, § 137.305(c) and amended § 137.320 make clear that the load line provision is only relevant for towing vessels subject to subchapter E load line requirements. Similarly, the provisions in new § 137.322 for vessels currently classed by a recognized classification society whose applicable rules have been accepted by the Coast Guard, are only relevant to vessels so classed.

Redesignated § 137.305 clarifies that objective evidence is needed to demonstrate that a vessel utilizing the TSMS option complies with the drydock and internal structural examination requirements of this subpart. Paragraph (c) points to §§ 137.320 and 137.322. We amended § 137.320 to make clear that an examination performed to maintain a valid load line certificate issued in accordance with subchapter E would count as an examination required under § 137.300. Also, new § 137.322 allows for the same consideration in the case of a drydock and internal structural examination performed to maintain class by a recognized classification society whose applicable rules the Coast Guard has accepted. In the case of those vessels required to conduct two drydock and internal structural examinations in accordance with § 137.300(a)(1), the allowance under either § 137.320 or § 137.322 only counts for one of the required examinations.

We received several diverse comments on proposed § 137.305, which specifies intervals for drydock and internal structural surveys. One commenter observed that towing vessels operate in an environment that requires them to be in contact with barges and vessels, and that this contact puts unusual stresses to the hull. Based on this observation the commenter suggested that the survey intervals called for in proposed § 137.305(a)(2), redesignated § 137.300(a)(2), for vessels not exposed to salt water often should be the same as those with more saltwater exposure—at least twice every 5 years and not more than 36 months between drydockings—instead of just once every 5 years.

The Coast Guard disagrees. The drydock and internal structural examination requirements in this final rule are consistent with the requirements for other vessels subject to inspection, and we see no reason to believe this frequency of drydocking would need to be increased for towing vessels. The Coast Guard will monitor the inspected fleet to see if increased frequency is called for in the future. As discussed earlier, proposed § 137.305 has been redesignated as § 137.300 in this final rule.

Some commenters thought the provision of proposed § 137.305 should be amended to ensure vessels operating on the Great Lakes may receive a 1-year extension on the required interval for drydocking and interval structural examinations as provided under load line provisions in 46 CFR subpart 42.09 and current Coast Guard policy.

The Coast Guard disagrees that modification to our applicable text, now found in § 137.300, is needed. The extension of a Great Lakes Load Line certificate by the Ninth District Commander is addressed in 46 CFR 42.07–45(d)(2). Existing Coast Guard policy, found in the Marine Safety Manual, Volume II, provides additional guidance to the Coast Guard and industry regarding extensions of drydock and internal structural examinations for Great Lakes vessels. The Ninth District Commander is also the approving authority for drydock extensions for these vessels, including towing vessels operating on the Great Lakes. While the same entity can issue both of these extensions, the load line certificate and the vessel's Certificate of Inspection must both be annotated with the new due date for the vessel's drydock and internal structural examination. We made no changes from the proposed rule based on this comment.

Some commenters noted that a definition for "saltwater" is needed if the times of operation in "saltwater" is a factor in determining intervals for inspections.

The Coast Guard did not add a definition for the term "saltwater" in the rule. The Marine Safety Manual, Volume II, places the responsibility of determining salt water and fresh water dry-docking and internal structural inspection intervals on the OCMI. If fresh water intervals are determined appropriate for a specific vessel, the OCMI will annotate the fresh water service intervals on the vessel's COI and evaluate that determination periodically. OCMIs maintain lists of boundary lines where fresh water ends, and salt water begins, within their particular zones.

A commenter expressed concern about the cost of the requirements. He wrote that proposed § 137.305 would impose enormous cost on small businesses, and that his company's vessels that operate in the Southeast in a saltwater environment would have to be drydocked twice every 5 years at an estimated cost of about $40,000 for each drydocking evolution for one vessel, or $80,000 per vessel every 5 years. Another commenter suggested that § 137.305, requiring drydocking of saltwater vessels twice every 5 years, would cost his company at least $100,000 to $150,000 per vessel.

The drydock and internal structural examination requirements in this final rule are consistent with the requirements for other vessels subject to inspection and necessary to meet the statutory requirements for vessel inspections. We have made no changes from the proposed rule based on this comment.

With regard to the cost of drydocking, after publication of the NPRM, the Coast Guard sponsored a study of standard marine engineering services for use in regulatory analyses, titled "Study of Marine Engineering and Naval Architecture Costs for Use in Regulatory Analyses" by ABS Consulting, available on the docket. According to the Engineering Cost Study, cost of drydocking can vary based on a variety of factors, including vessel size, vessel weight, equipment, type of work, operating environment and location of the drydock.[2] The Engineering Cost Study summarizes the minimum, average and maximum costs of drydocking for various vessel types in Table 6–9, page 32. The Engineering Cost Study does not report a separate cost category for towing vessels. The Coast Guard uses the costs for smaller Freight Ships and Industry Vessels as a proxy for towing vessels based on similar size and operating characteristics. Based on the Engineering Cost Study, the minimum cost for a drydocking of a towing or similar vessel is $2,000, the maximum is $20,000 and the average is $9,250. We consider the $9,250 as the best available estimate for the average cost of drydocking. We acknowledge that the $40,000 estimate provided by the commenter is feasible given the variability of factors, such as size and location. To account for the variability, we assume that the $40,000 cost is at the 90th percentile of the distribution of costs, that is, 10 percent of vessels will incur this cost for drydocking. As a result, we modify the average cost to reflect the upper 10th percentile cost of $40,000, for a weighted average cost of $13,250. As per the regulatory requirements, vessels that are not currently covered by a safety management system are assumed to incur this cost once every 5 years for freshwater vessels and twice every 5 years for saltwater vessels.[3] For a more detailed discussion of the costs, see section 3.3 of the Regulatory Analysis which is available in the docket.

We received a few comments on proposed § 137.315. Some commenters were unclear whether the requirement of notification prior to commencing work at the drydock refers to any drydock work or only those drydock visits that are required by the TSMS.

In response, we amended § 137.315(d) to clarify when to notify the Coast Guard under paragraph (d) and TPOs under paragraph (b) of activities related to credit drydocking or internal structural examinations.

A few commenters asked that § 137.315 be modified to clarify that the items described in § 137.330 need not be examined as one event, but may be examined on a schedule over time.

Section 137.315(c) states that "The interval between examinations of each item may not exceed the applicable interval described in § 137.300." The Coast Guard believes the words "examinations of each item" provides clear guidance that an owner or managing operator of a towing vessel may select to survey different items described in § 137.330 during multiple events, and the remainder of § 137.315(c) makes clear that the interval for surveys of a given item must not exceed the applicable interval described in § 137.300.

Several commenters argued that proposed paragraph (a) of § 137.325, requiring a surveyor to determine that the hull and related structure and components are free of defects or deterioration, would be too difficult to meet. One commenter suggested language we used in proposed § 137.335(c)(3) regarding underwater inspections—"free from appreciable defects and deterioration"—stating that it does not make sense to require a higher standard for a vessel on drydock than one being inspected in the water.

The Coast Guard agrees with the commenters with respect to the term "free of defects [and] deterioration." We have amended § 137.325(a), to remove the term "free of" and have further rearranged the paragraph so that the standard for evaluating the listed items detected in the hull and related structure and components is whether they "adversely affect the vessel's seaworthiness or fitness or suitability for its route or service" instead of "reducing effectiveness." Also, in § 137.325(a), we changed "determine that" to "determine whether" to better reflect the purpose of the survey: To determine if standards are met. In response to the second comment, the Coast Guard amended § 137.335 by removing the word "appreciable" to provide a more consistent standard with that of § 137.325(a), and by reorganizing the section to better clarify its intent.

Two commenters expressed general opposition to the proposed requirements and scope for regular mandatory drydock examinations. One commenter stated that harbor service boats are already being retired on a regular basis when their structural usefulness is at an end, and therefore mandatory structural inspections are not warranted. The commenter also noted the cost of additional boats to fill the service void when these boats are in transit to a certified inspection drydock and when undergoing a drydock inspection. Another commenter was specifically concerned that proposed § 137.330 was vague regarding pulling the tail shafts for inspection.

Because of the nature of towing, the hulls of towing vessels are exposed to the unique hazards that result in degradation and damage to the towing vessel in the normal course of operation. For this reason, regular drydocking of a towing vessel to inspect its underwater areas is a necessary component of assessing and verifying fitness for service. We note, however, that as proposed in the NPRM, § 137.335 in this final rule identifies situations where it may be acceptable to conduct an underwater survey in lieu of a drydocking.

The Coast Guard notes that scope of drydock examination required by § 137.330 is the same for both seagoing and inland service. The Coast Guard believes § 137.330 clearly lays out the scope of the required drydock examination for all towing vessels subject to subchapter M. Our proposed definition of "drydock" in § 136.110 actually defines a drydock examination (as opposed to the physical dock) and matches the definitions of that term in subchapters K and T, so we amended the term being defined to "drydock examination."

Regarding examination of tail shafts, the Coast Guard proposed

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[2] Source: ABS Consulting for the U.S. Coast Guard, Study of Marine Engineering and Naval Architecture Costs for Use in Regulatory Analyses, March 29, 2013, Contract GS–23F–0207L2714803, page 30.

[3] Vessels currently covered by an SMS already are required to undergo drydocking at similar intervals.

§ 137.330(a)(2) to permit the surveyor or inspector to conduct the required examinations using different means than pulling the tail shaft, so long as the method used allows the surveyor or inspector to properly evaluate the tail shaft for bends, cracks, and damage. These methods may include technologies such as non-destructive testing and x-ray. The Coast Guard has not made any changes from the proposed rule based on these drydocking and tail shaft comments.

Regarding the cost of additional boats to fill the service void when these boats are in transit to a certified inspection drydock and when undergoing a drydock inspection, the Coast Guard has added an estimate of lost revenues (rather than the cost of replacement) to account for the potential impacts of vessels being out of service due to drydock inspections. Further information is available in Section 2.5 of the Regulatory Analysis.

We received a few comments on § 137.335, which sets out provisions for an underwater survey in lieu of drydocking. One commenter expressed support for the provision. One commenter suggested that for purposes of determining whether an underwater survey is appropriate, the age of the hull should be used rather than the age of the towing vessel.

The Coast Guard does not agree that we should use the age of a given vessel's hull as opposed to the vessel's age when considering eligibility for enrollment in an underwater inspection in lieu of drydocking (UWILD) program. For an existing vessel with no prior credit drydock overseen by the Coast Guard, we have no criteria to make an "age of hull" determination. Once inspected, a completely new hull will likely be considered as a major modification and reset the vessel's age for purposes of UWILD enrollment.

While we did not make a change from the proposed § 137.335 based on these comments, we did amend § 137.335 to clarify the process for the UWILD program by stating that it is the Coast Guard that determines if the stated criteria for eligibility has been met.

One commenter opposed several vessel compliance provisions in part 137. He argued that requirements for training and recordkeeping will be an excessive burden on small companies, a distraction to pilots, and cause undue hardship for vessel owners; that vessel managing operators should not have to get permission to put visitors, company representatives, or additional personnel on the vessel; and that restrictions in routes permitted on the COI would be a deterrent to his ability to make a living and provide employment for his personnel. Other commenters noted that the paperwork requirements would distract pilots while they are steering their towing vessels.

The Coast Guard views the TSMS, and its requirements for records to document compliance with regard to training, as the foundational document itemizing the standards, processes and management systems necessary to improve maritime safety aboard towing vessels. Towing companies that lack the resources to develop and implement a TSMS may choose the Coast Guard inspection option and will not have to maintain the TSMS-required records and documents. We note, however, that personnel record requirements in § 140.400(a) and (b) apply to all vessels subject to subchapter M; in response to this comment we have made clarifying amendments to those paragraphs. With respect to associated paperwork, many of the entries are short in duration and the Coast Guard does not mandate when the paperwork is filled out.

Regarding crews and visitors, the Coast Guard will issue certificates of inspection that establish the level of manning and persons in addition to the crew that will be allowed to be on board the vessels. Companies should work with OCMIs prior to issuance of the COI to request any additional personnel above what the required manning level would normally be. The Coast Guard does not agree with the commenter's assertion that the OCMI does not need to be contacted to carry additional personnel (visitors, company reps, etc.) beyond what is stated on the COI. We note that § 136.245 provides for the issuance of an excursion permit by the OCMI as needed.

The application for inspection allows owners and managing operators to request the routes necessary to accomplish their business. OCMIs will evaluate that request to determine if the vessel meets the standard for the routes being requested. Those standards are found in parts 140 through 144. We made no changes from the proposed rule based on these comments.

One maritime company expressed concerns regarding added operating costs incurred that will stem from drydock inspection fees paid to surveyors or the Coast Guard, and from audit exams and what the maritime company considers unnecessary repairs brought upon the industry by non-risk-based regulations.

The requirement to have a surveyor from a TPO conduct a drydock and internal examination is predicated on the option chosen to obtain a COI. The Coast Guard encourages the owner or managing operator of a vessel using the TSMS option to discuss such costs with the company's TPO, as appropriate.

One commenter predicted the cost of surveys would likely increase for both small and large companies, citing the demand for Coast Guard-approved surveyors from TPOs and the increased scope of surveys. He noted many common repairs that can now be performed without requiring independent surveys will require independent surveys under this rule.

The Coast Guard does not accept the premise that this rule imposes a requirement that independent surveyors must be involved before common repairs are performed. Regarding repairs, under § 137.305, the OCMI may require additional examination of a vessel whenever he or she discovers or suspects damage or deterioration to hull plating or structural members that may affect the seaworthiness of a vessel. We believe the OCMI should be able to require additional examinations when he or she discovers such conditions, and we note that such examinations are typically reserved for those dry-docking and topside surveys required by part 137. We note also that under §§ 137.135(a)(12) or 137.210(a)(3) there is a requirement to identify items that need to be repaired or replaced before the vessel continues in service, but this would not require a TPO survey before common repairs could be made.

Regarding the need for surveyors from TPOs, under the Coast Guard option, annual inspections are performed by Coast Guard personnel and do not require participation of a surveyor from a TPO. Similarly, if a company has a TSMS and chooses an internal survey program, the surveys can be conducted by a qualified member of the company and would not require a TPO. If a company with a TSMS uses the external survey program, they would incur additional costs of using a surveyor from a TPO.

H. Towing Safety Management System (TSMS) (Part 138)

We received many comments on our proposed part 138 TSMS requirements. We received several comments with regard to the schedule for the TSMS option. An individual suggested that the implementation of a TSMS should occur immediately with the allowance of a 6-month interim certificate. This commenter stated using an interim basis approach, as is done with the ISM Code, will prevent reinventing the wheel and align the system approach to existing requirements.

We have made a number of changes, as explained in this section to provide for a smooth implementation of the TSMS option while keeping in mind the burden to owners and managing operators. In the NPRM, we proposed that owners and managing operators who select the TSMS option would have 2 years from the effective date of a final rule to create their TSMS, have a TPO approve it and then issue a TSMS certificate. The owners and managing operators would then have 4 years from the date of that TSMS certificate to bring all vessels under their ownership or management into the TSMS and obtain COIs for them.

In this final rule, we changed § 138.115 so that owners or managing operators of towing vessels need only to obtain a TSMS certificate issued under § 138.305 at least six months before being able to have any of their vessels obtain a Certificate of Inspection under the TSMS option. We made this change to better account for the time needed for third parties to obtain approval from the Coast Guard and for owners and managing operators to obtain approval of their TSMS from these third parties before being required to have their vessels obtain a COI. We also believe that six months of implementing a TSMS is sufficient for obtaining a COI, and as required, the vessel would need to have on board a copy of the owner or managing operator's TSMS certificate. We amended § 138.115 to more closely align the deadline with the deadlines for vessels to obtain a COI, but this change does not prevent a company from implementing a TSMS sooner and we encourage owners and managing operators to obtain the TSMS certificate and implement their TSMS as soon as possible. In making this change, we do not believe there is a need for a 6-month temporary certificate.

Two commenters expressed their view that utilizing internal and follow-up audits would mean that there would be no need for a TSMS.

The Coast Guard does not agree that merely conducting audits and surveys would negate the need for TSMS. The TSMS is the foundational document itemizing the standards, processes, and management systems that the auditor would review, assess, and validate. Without a TSMS, or some other form of Safety Management System, there would be no documentation to identify the processes and management system(s) put in place for a vessel choosing the TSMS option. We made no changes from the proposed rule based on these comments.

We received comments from maritime companies and a professional association suggesting that proposed §§ 138.205, 138.210, 138.215, and 138.220 pertaining to the purpose, functional requirements, and elements of the TSMS be revised to be more simplistic and to more clearly state the primary goals of a TSMS.

We believe the purpose, objectives, functional requirements, and elements presented in these four sections in part 138, subpart B, succinctly establish reasons for, and the requirements and goals of, a safety management system. The Coast Guard incorporates these core elements to provide consistency with the ISM Code and to identify the elements that must be addressed when developing a TSMS. In response to a previous comment, we did revise our definition of "safety management system," which identifies the nature of an SMS and who it enables to effectively implement the safety and environmental protection requirements of subchapter M. Additional guidance will be developed to help the industry and public understand the goals of a TSMS and how to develop and implement one.

Some commenters requested clarification regarding the proposed functional requirements in § 138.215(f) and TSMS elements in § 138.220(e) related to the phrase "procedures to manage contracted (vendor safety) services." The commenters suggested that the management of all hired (contracted) towing vessels to ensure they comply with subchapter M would be a burden, and they suggested that proof of the hired company's TSMS and vessel's COI should be sufficient evidence to meet the intent of the rule. One of the commenters stated that it is unclear what contracted services are covered by § 138.220(e).

The Coast Guard agrees. When contracting their vessels to others for towing services, the owner and operator remain responsible for for verifying that their vessels are in compliance with the regulations. We have removed the requirements proposed in §§ 138.215(f) and 138.220(e).

We received several comments from maritime companies that conveyed concern regarding the proposed requirement in § 138.220(b)(1) for employers to, "ensure personnel are . . . mentally capable to perform required tasks." The commenter's stated that although employers conduct drug testing, safety training, and physical examinations, the employers cannot be responsible for determining their mental health status.

The Coast Guard agrees that it may be unreasonable for the company to determine the mental health of a crewmember. It is reasonable, however, for companies to identify if potential crew members are able to perform required tasks. For this reason, we have edited the quoted language in § 138.220(b)(1) to require the TSMS to contain employment procedures which ensure "that personnel are able to perform required tasks."

We received a comment requesting more details regarding crew member (master, mate, able seaman, pilot, etc.) responsibilities in the operation, managing, and implementation of the TSMS and the vessel.

The Coast Guard does not agree that the regulations should contain more details on crew responsibilities and believes that this should be left to the discretion of the owner or managing operator to set in the TSMS. Under § 138.220(b), policies must be in place in the TSMS that cover the owner or managing operator's approach to managing its personnel, including the duties and responsibilities of the crewmembers.

We received comments from individuals and a maritime company recommending that the rule ensures that major non-conformities, non-conformities, accidents, and hazardous situations are reported to the owners, company, or managing operators; are investigated and analyzed with the objective of improving safety and pollution prevention; and that auditors notify the Coast Guard and the company immediately of any serious, unsafe situation that threatens the vessel, its personnel, or the environment. One commenter noted that TSMS requires a designated person to whom crewmembers can report safety violations, but that towing vessels opting for the Coast Guard inspection option would not have this reporting system that would likely prevent accidents. Another commenter recommended supplementing the text in § 138.220(a)(1)(ii) to ensure that the designated person monitors the safety and pollution prevention aspects of the operation of each vessel and ensures that adequate resources and shore-based support are applied.

With respect to reporting accidents and non-conformities, we note that § 138.215(c) requires TSMSs to include procedures for reporting both. Section 138.220(a)(2)(ii) requires that the TSMS include procedures to identify and correct non-conformities. The TSMS must include how an initial report should be made and the actions taken to follow up and ensure appropriate resolution.

For vessels choosing the Coast Guard option the corresponding "designated person" is the vessel's Master. In part 140 on operations, § 140.210(d)(6) requires the crew to report unsafe conditions to the Master and take the most effective action to prevent accidents.

The Coast Guard disagrees with adding specific regulatory text to § 138.220(a)(1)(ii) regarding the designated person. Section 138.220(c) requires the TSMS to have an element that addresses verification of vessel compliance that covers the safety and pollution prevention aspects that the commenter alluded to. Ultimately the designated person is responsible for ensuring the TSMS is implemented and continuously functions to address concerns identified by the commenter.

On the issue of protecting the responsibilities and authority of masters, we received comments suggesting that the TSMS specifically states that the master has overriding authority to make decisions regarding the company's safety and pollution prevention.

The Coast Guard agrees that the master of a towing vessel has overriding responsibility and authority to ensure the safety of his or her vessel. As stated in § 138.220(a)(1)(iii), the Master's authority, as defined by the owner or managing operator in the TSMS, must provide for his or her ability to make final determinations on safe operations of the towing vessel including the ability to cease operations if an unsafe condition exists. This reflects provisions in operational regulation § 140.210 which specify that safety of the towing vessel is the responsibility of the master and that if the master believes it is unsafe for the vessel to proceed, he or she must not proceed until it is safe to do so.

We received many comments from maritime companies that recommend that the Coast Guard accept the AWO RCP as an approved TSMS. Commenters wrote about the wide use of the RCP and attested to the success that their company has experienced implementing that program. Several commenters also suggested that because AWO RCP has been developed from the ISM code, which we already noted as being accepted in the NPRM, the AWO RCP should qualify as an approved TSMS.

The provisions of § 138.225 state that an SMS that is fully compliant with the ISM Code requirements of 33 CFR part 96 will be deemed in compliance with TSMS requirements in part 138. It also states that the Coast Guard may consider other existing safety management systems as meeting part 138 requirements. The Coast Guard will examine AWO's RCP to determine whether or not it meets the requirements of 46 CFR part 138 in order to determine if it qualifies under the provisions of this section. We have not made a change from the proposed rule based on these comments.

We received comments from several maritime companies that recommended the sequence of events for the issuance of a COI for towing vessels be provided.

The Coast Guard notes the following short sequence of events associated with the various ways to obtain a COI:

Step 1: As specified in § 136.210, Obtaining or renewing a Certificate of Inspection (COI), the owner or operator must submit a completed CG–3752, Application for Inspection of U.S. Vessel, to the cognizant OCMI. As noted in § 136.130(d), the applicant must specify the option—TSMS or Coast Guard Inspections—when submitting the Application for Inspection for a vessel.

Step 2: Under § 136.212, the Coast Guard will inspect the vessel at least once every 5 years for certification.

Step 3: As specified in § 136.212(c) of this final rule, the OCMI will issue a vessel a new Certificate of Inspection after the vessel successfully completes the inspection for certification.

With respect to this process, and as noted previously, we amended § 138.115 so that owners or managing operators of towing vessels selecting the TSMS option need to obtain a TSMS certificate at least six months before being able to have any of their vessels certificated. We believe this is more consistent with the required schedule of when vessels must obtain a COI as shown in § 136.202 when considering the time needed for third parties to obtain Coast Guard approval and for owners and managing operators to obtain approval of their TSMS from the third parties.

Five maritime companies suggested that additional language be provided in § 138.305 to clarify how a third-party is to respond when a non-conformity is discovered and what the appeals process will be for a company whose certificate is rescinded.

The Coast Guard agrees and has added language to § 138.505(a) to specify that the results of any external audit of the owner or managing operator's compliance with § 138.315 of this part must be submitted to the Towing Vessel National Center of Expertise within 30 days of audit completion by the TPO conducting the external audit. Further, we amended our definition of "non-conformity" in § 136.110 to clarify that it is referring the non-fulfillment of a safety management system specified requirement. On reviewing proposed § 138.215(j) procedures for evaluating recommendations, which has been redesignated as § 138.215(i), to be more consistent with other quality control and safety management systems, we amended its reference to the source of the recommendations to include more company personnel, and made a similar edit in § 138.220(a)(2)(ii) regarding reporting non-conformities.

Regarding the appeal process, in proposed § 136.180 we stated that any person directly affected by a decision or action taken under this subchapter by or on behalf of the Coast Guard, may appeal in accordance with subpart 1.03 in subchapter A of this chapter. In response to comments, the Coast Guard has added § 1.03–55 to identify the Coast Guard official or entity appeals should be directed to, including the appeal of matters relating to action of a third party, such as when a TPO rescinds a TSMS certificate.

A professional association noted that, as written, proposed § 138.305 would require that all towing vessels in a fleet that are in compliance with the TSMS be included on the company's TSMS certificate. The commenter stated that this provision would render an entire fleet invalid if a TSMS is revoked under proposed § 138.305(d), and therefore, a paragraph needs to be added to this section detailing the appeals process for the rescinding of a TSMS, which mirrors the current Coast Guard appeals process for rescinded COI's. One commenter suggested that the proposed requirement in paragraph (c) to list vessels on a TSMS certificate is cumbersome and unnecessary.

The Coast Guard understands the commenter's concern and has amended § 138.305, so that owners or managing operators need only maintain, and produce on request, a list of vessels currently covered by each TSMS certificate. This is a less burdensome means of requiring this information.

Exceptional circumstances such as failure to complete a required audit, major non-conformities discovered during an audit or survey, and failure to fully implement their TSMS could render the TSMS certificate invalid for a company's entire fleet. Based on the Coast Guard's experience with other safety management systems, including ISM, these circumstances have been rarely observed. It is more likely that an infraction of the regulations would result in a less drastic response—for example, in the form of non-conformities being reported for the one or few vessels involved, or those vessels being removed from the list of vessels found to be in compliance with the TSMS.

If the situation warrants, the TPO that issued the TSMS certificate is able to rescind the certificate, which could impact the entire fleet, or remove one or more vessels from the list of vessels on the TSMS for non-compliance with the requirements of part 138. Such an action that would render the certificate no longer valid would indeed impact the entire fleet of vessels listed in that TSMS certificate. Also, we note that the Coast Guard may suspend or revoke the TSMS certificate at any time for non-compliance with the requirements of part 138. As discussed above, we have added 46 CFR 1.03–55 to clearly identify the Coast Guard official or entity appeals should be directed to for those seeking to appeal a decision by a TPO under § 138.305(e) to rescind, or a Coast Guard official under § 138.305(d) to suspend or revoke, a TSMS certificate.

In commenting on § 138.305(f) requirements, an individual suggested it is unnecessary for a copy of the TSMS certificate to remain onboard the vessel because the certificate will be on file at the Captain of the Port (COTP) and at the company's office.

The Coast Guard does not agree. Some towing vessels will frequent a number of COTP zones. The TSMS certificate provides evidence that a vessel covered by the TSMS was found to meet 46 CFR part 138 requirements, and a copy on board the vessel will be readily available to Coast Guard officials wherever the vessel is operating.

A transportation company suggested that two certificates should be issued instead of one: A Towing Company Safety Management System Certificate to the office and a Towing Vessel Safety Management System Certificate to each towing vessel. One commenter recommended and provided text for a new section that would provide information on how to obtain such certificates.

The Coast Guard does not agree. A TSMS is intended to be the central document that directly links the towing vessel and the shore-based management operation. The TSMS is not only for the vessel or only for management. Rather, it is the documentation of processes, responsibilities and required action defining the mutually supporting actions between the vessel mariners and management. A TSMS certificate should be the only document issued attesting to the acceptability of the system. This should reduce the paperwork burden on industry and TPOs.

We received comments suggesting the removal of the proposed requirement for an internal auditor to be a person outside of the organization. Commenters felt that this requirement could make it difficult for small companies to comply. Others suggested that a person who is involved in the development of the TSMS would be useful in identifying areas where the system is not meeting standards. Several comments from maritime companies felt that the requirements for internal auditors should mirror ISM Code 12.4, which states that "Personnel carrying out audits should be independent of the areas being audited, unless this is impracticable due to the size and the nature of the Company."

The Coast Guard believes that some of these comments are based on a misreading of § 138.310. The section does not require an internal auditor to be a person outside of the organization. However, to come closer to the desired objectivity of a third-party organization, the internal auditor may not be a person involved in the implementation of the TSMS. In response to these comments on § 138.310, the Coast Guard has amended § 138.310(d)(4) to include qualifying language from ISM code 12.4: The auditor must be independent of the procedures being audited, unless this is impracticable due to the size and the nature of the organization. Thus, very small organizations may potentially use someone from within their organization to perform the audit.

Some commenters also recommended that the proposed requirement, in § 138.310(d)(2), for internal auditors to have completed ISO 9001–2000 courses be deleted.

The Coast Guard does not agree. We believe that a robust auditing system that includes both internal and external auditing processes serves to enhance the effectiveness of a safety management system and provides a venue for identification of deficiencies and a process for corrective action. Requiring internal auditors to have completed an ISO 9001–2000 internal auditor/assessor training course, or a Coast Guard-recognized equivalent course, is intended to ensure that the internal auditor is familiar with basic auditing standards and procedures. However, we want to accept those who have been trained under newer ISO 9001–2008, so we amended §§ 138.310(d) and 139.130(b)(3) to include that standard. In this final rule, both the ISO 9001–2000-based training we referenced in the NPRM and the ISO 9001–2008-based training meet our qualification requirement. The intended result of this training is to ensure that the internal audit meets minimum standards.

One commenter requested more information regarding the accepted course work for internal auditors. An individual offered suggestions for the minimum education for internal auditors.

The Coast Guard disagrees. The Coast Guard has incorporated ISO 9001 standards for internal auditor competencies in § 138.310 to reflect the best practices found in industry. The Coast Guard does not agree that standards either less than or in excess of these minimum competencies enhance the credibility of the internal auditing process. We made no changes from the proposed rule based on these comments.

We received comments that requested clarification of our requirements for external audits in § 138.315. One commenter opposed the provision in § 138.315(b)(2) that vessels must be selected randomly for an external audit during the 5-year period of validity of the TSMS certificate, which the commenter viewed as subjecting a vessel to multiple external audits. He suggested that satisfying § 136.203 requirements for vessels with TSMS certificates should be sufficient. Another was confused by § 138.315(b)(2)'s requirement for an external audit prior to the issuance of the TSMS certificate because he felt it was the initial audit that leads to the TSMS certificate. One commenter questioned why we called for random audits.

In response to these comments we have changed § 138.315(b) to clarify the requirements for external vessel audits. We removed the requirement in proposed paragraph (b)(1) regarding the need for an external audit on all vessels prior to an owner or managing operator receiving the initial TSMS certificate. Upon reconsidering this provision we determined it is not necessary and instead we considered the need for vessel to undergo an external audit in relation to the initial COI for the vessel. And in doing so we considered the two different categories of vessels for which an owner or managing operator would need to obtain an initial COI. First, there are the vessels that have been owned or operated for more than six months which generally will include all existing vessels that are now coming under this subchapter. Secondly, there are newly constructed vessels as well as existing vessels that an owner or managing operator may obtain, all of which will need a COI to operate but which have been owned or operated for less than 6 months. For the first category, § 138.315(b)(1) requires the vessel to undergo an external audit prior to obtaining the initial COI. For the second category, § 138.315(b)(2) requires that the vessel undergo an external audit no later than 6 months after receiving the initial COI. We note, that as required by § 138.505(b), the results of all external vessel audits are required to be provided to the cognizant OCMI. We believe that 6 months of operation is sufficient for owners or managing operators to fully implement their TSMS on their towing vessels and is also consistent with other SMS provisions including the duration of interim ISM vessel certificates.

Proposed § 138.315(b)(2) has remained the same but is now § 138.315(b)(3). The other change we made was to add § 138.315(b)(4) to clarify that not all information for an external audit necessarily needs to come from the vessel examination as some may be obtained from the owner or managing operator's office but that however, some of the information must be obtained by visiting the vessel.

As noted, we made these changes to clarify when vessels need to undergo an external audit as well as the relationship between the external audit and a vessel's initial COI.

As for the comment regarding confusion caused by § 138.315(b)(2), (now § 138.315(b)(3)), we note that, as proposed, paragraph (b)(1)'s requirement for an external audit of the vessel before issuance of the initial TSMS certificate is separate from paragraph (b)(2)'s requirement that an external audit of each vessel must be conducted during the 5-year period of validity of the TSMS certificate. We didn't view these requirements as confusing or conflicting but as noted above, we have removed the requirement proposed in § 138.315(b)(1). Nor do we consider § 138.315's sequencing of external management audits and vessel audits as confusing. As noted above, we removed proposed § 138.315(b)(1) and replaced it with provisions in (b)(1) and (b)(2) to specify when an external vessel audit is required relative to a vessel receiving the initial COI. Note that § 138.315(a)(2) and new § 138.315(b)(3) continue to specify the external management and vessel audits required during the validity period of the TSMS certificate. It is important that all vessels undergo one external audit every five years along with external management audits to verify that an owner or managing operator's TSMS have been fully implemented and the TSMS certificate can be renewed. In proposed § 137.210(c), we did state that before it could be placed in an audited program, a towing vessel must successfully complete an initial audit by a third-party organization, and then be audited as required by part 138. In this final rule we removed any reference to an initial audit in part 137.

One commenter recommended replacing the random selection with a requirement for at least one intermediate verification between the second and third anniversary dates of the TSMS certificate. Another commenter stated that § 138.315's sequencing of external management audits and vessel audits seems confusing.

The commenter's concern about proposed § 138.315(b)(2)'s, now § 138.315(b)(3)'s, random-selection provision is unwarranted because that paragraph specifically calls for only one ("an") external audit of vessels during the 5-year period. In addition, as noted previously, we added § 138.315(b)(4) to allow for the use of objective evidence to verify compliance with some portions of the audit; however, some portions require visiting each vessel during the 5-year period. We call for the vessels to be selected randomly to provide a risk-based approach and maximum flexibility for ensuring continual compliance with this subchapter. Therefore, we decline to amend § 138.315 to remove the random-selection provision.

We received comments from several companies noting that the proposed requirement in § 138.315(c), that audit documents to be maintained for 5 years and submitted to Coast Guard upon request, appears to conflict with the proposed § 138.505 requirement that the owner or managing operator submit each audit to the Coast Guard.

The Coast Guard agrees that these two sections contain different record requirements, but we do not view them as conflicting requirements. Paragraph (c) of § 138.315 calls for the maintenance of external audit results so that they are available when requested by the Coast Guard inspectors or an external auditor. Coast Guard inspectors may not have access to those audit reports submitted to the TVNCOE and external auditors may not otherwise have access to results from previous TPOs' management or vessel audits. The Coast Guard has amended § 138.505 to clarify who the submission is required to go to and the submission timeframe for the external audit results.

Three commenters suggested that a provision be added to § 138.315 that states the OCMI or COTP may be able to extend the external audit time period due to the unavailability of an TPO.

The Coast Guard declines. Paragraphs (a) and (b) of § 138.315 establish a range of time for companies and TPOs to schedule external audits. A TPO that has been contracted to oversee the towing company's TSMS program is responsible for maintaining the audit cycles required by the regulations. The TPO has the ability to enter into contractual agreements to conduct required audits. However, in response to these comments, we added a paragraph (l) to § 139.120 to clarify the responsibilities of the TPO in regards to conducting required external audits and surveys within the intervals established in this subchapter.

Some commenters recommended that text be added to § 138.410 to address the process an auditor must follow when he or she identifies a non-conformity. These commenters recommended adding a requirement that the TPO notify the owner or managing operator and the Coast Guard immediately of any recognized hazardous condition that poses an imminent hazard to personnel, the towing vessel, or the environment. For less serious non-conformities, these commenters recommended that the auditor only require the owner or managing operator to develop and implement a corrective action plan.

The Coast Guard agrees with the commenters' suggested edits. First of all, we amended § 138.505 to make clear where external audit result reports are to be submitted. Under § 138.505, all detected non-conformities would be reported to the Coast Guard because they would be part of the results of any external audit. Section 138.505 contains requirements on what is to be submitted to the Coast Guard by the external auditor and when it is to be submitted. In addition, we also amended § 138.410 to require the auditor to notify the Coast Guard within 24 hours of discovering a major non-conformity which, as defined in § 136.110, would cover hazardous conditions that pose imminent hazards. We also amended § 138.410 in response to this comment to ensure the auditor reports major non-conformities to the owner or managing operator.

We received several comments, particularly from maritime companies, requesting that we add language to proposed § 138.500 to specify which Coast Guard office or official the owner or managing operator should notify prior to conducting a third-party audit and to clarify that the Coast Guard's attendance at such audits—attendance that § 138.500(b) allows the Coast Guard to require—would not or should not cause delays in the audit.

The Coast Guard has amended § 138.500(a) in response to these comments to include a notification to the cognizant OCMI at least 72 hours prior to an external audit to mitigate potential delays in the conduct of the audit from Coast Guard scheduling, if attendance is required. In a related amendment, we deleted § 139.170 in its entirety because those requirements are already stated in parts 137 and 138.

A company suggested that § 138.505 clarify that audit records only be provided to the Coast Guard upon request. Also, a maritime company requested to be able to submit documents required by § 138.505 electronically.

The Coast Guard disagrees with the suggested change to § 138.505 to only provide records upon request. Final reports from the external management and vessel audits must be provided to the Coast Guard within 30 days of an audit. For the Coast Guard to properly oversee vessels using subchapter M's TSMS option, it is important that it receives final reports soon after they are completed. As noted above, we set the 30-day submission deadline in response to a previous comment. We note that in addition to this submission requirement, § 138.315(c) requires records of external audits to be maintained for 5 years and made available on request. These reports are valuable historical records that must be available when needed by internal and external auditors as well as by the Coast Guard.

As for submitting external audits records or results required by § 138.505 electronically, we noted earlier that we amended § 140.915(b) to provide safeguards against false or late electronic entries in towing vessel and TSMS records. If the submitter uses equivalent safeguards for transmitting records, the Coast Guard will accept electronically transmitted external audits records that § 138.505 directs be submitted to the Towing Vessel National Center of Expertise (managing operator's compliance audits) and the cognizant OCMI (towing vessels external audits) so long as the means used allows the Coast Guard to reliably verify the person making the submission and the authenticity of the external audit records. For those seeking to submit external audits records or results to the Coast Guard electronically, the TSMS must address the means to be used to make electronic submissions. We have amended § 138.505 to reflect this option.

We received comments from a maritime company and an individual requesting more information regarding the address to which the results of an external audit are to be submitted to the Coast Guard.

The Coast Guard agrees with these requests and has amended § 138.505 so that it is clear to the TPO which Coast Guard office or official external audit records must be submitted to. Also, we have inserted the address for the Coast Guard Towing Vessel National Center of Expertise.

We received six comments from maritime companies requesting more information be provided regarding potential actions the Coast Guard may take if an owner is found to be noncompliant with the TSMS or requirements in subchapter M. Also, two commenters suggested that the TSMS is "unenforceable" and that we do not have a sufficient penalty process in place for violations.

The company and its vessels are subject to a broad range of actions by the Coast Guard and the TPO depending on the conditions found on the vessel. Companies and vessels operating under a TSMS that fail to meet minimum requirements may be subject to enforcement, including Captain of the Port orders restricting operations, suspension and withdrawal or revocation of the COI, and suspension or revocation of the TSMS certificate. Also, as we state in § 140.1000, violations of the provisions of this subchapter will subject the violator to the applicable penalty provisions of Subtitle II of Title 46, and the penalty provisions of Title 46, and Title 18, U.S.C.

A company expressed concern about whether the Coast Guard would have resources to hire a sufficient number of competent vessel inspectors for convenient scheduling for the company, including drydock scheduling.

Regarding having a sufficient number of competent vessel inspectors, as we indicated in response to comments above, the Coast Guard is prepared for what it has estimated will be the demand for annual inspection from owners and managing operators selecting the Coast Guard inspection option. The Coast Guard will closely monitor the demand for inspections and will make resource adjustments as necessary.

Two maritime companies felt that use of any Coast Guard inspection resources should be based on risk and that those companies that have had satisfactory safety records, and successful TSMS audits, should not have the same level of Coast Guard oversight as companies with a history of poor performance.

The Coast Guard agrees with the comment about its allocation of resources and intends to use a risk-based approach based on safety, survey, inspection and audit histories.

One commenter requested information regarding how the Coast Guard will manage conflict of interest potentially created by future employment opportunities in the towing vessel industry offered to those conducting inspections. All Coast Guard personnel are bound by ethics laws and regulations which govern their ability to seek and accept non-federal positions following their government service.

One commenter urged the Coast Guard to obtain full jurisdiction over regulated towing vessels, including areas that OSHA is currently regulating.

This request is beyond the scope of this rulemaking. OSHA will continue to enforce its requirements on shipyard employers that perform shipyard employment subject to 29 CFR 1915 on inspected and uninspected vessels. OSHA will also continue its current enforcement on uninspected vessels.

A towing company suggested that a more "streamlined" TSMS be offered to smaller companies so as to avoid burdensome administrative requirements.

A safety management system in general, and the TSMS in particular, is a flexible tool for management in that it is user-defined to address the unique operations, equipment and hazards present in the vessel operator's market. For the small business operator with a fleet of one or two vessels the TSMS may not need to be an expansive document. The requirements to identify the range of operations for a small towing vessel serving a limited area and market is likely to be much less than that of a larger towing vessel company consisting of dozens of vessels and serving a large, diverse market over a large area.

The TSMS for small operators is scalable to their operation. Thus, it can be "streamlined" to address a limited set of assets, process, and personnel. As a towing vessel operation grows, so too would the TSMS need to scale up to identify the growing inventory of operations and accompanying safety concerns. We have not made any changes from the proposed rule based on these comments.

One commenter suggested that the safety culture in the towing vessel industry could be further developed by addressing the communication barrier between managers and operation personnel.

We believe the safety culture the commenter refers to will be greatly enhanced in companies with a TSMS in place. A TSMS is the central document that directly links the towing vessel and the shore-based management operation. For a TSMS to be effective, management and operational personnel must continuously communicate. The TSMS documents processes, responsibilities and required action that define the mutually supporting actions between managers and operation personnel. The Coast Guard believes that the integration of the TSMS will result in enhanced safety as it promotes greater communication and also defines corrective actions required when communications fail to produce the intended result of improving safety.

One commenter suggested that for small companies that choose to elect the Coast Guard inspection option, language should be added to indicate that "alternative compliance methodologies" are acceptable.

As we noted above, the Streamlined Inspection Program in part 8, subpart E, of this chapter, is an option that vessels subject to subchapter M may seek to use to renew a COI. Also, in § 136.115, we proposed accepting certain alternative approaches to satisfying subchapter M requirements. We did not propose, however, to allow vessels subject to subchapter M to take advantage of part 8, subpart D's, Alternative Compliance Program to obtain a COI. We have made no changes from the proposed rule based on this comment.

Another commenter suggested updating the Streamlined Inspection Program to include electronic, downloadable forms, and user-friendly templates.

This suggestion is outside of the scope of this rulemaking. We made no changes from the proposed rule based on this comment.

In the NPRM we discussed comments submitted in response to seven questions we posed in a December 30, 2004, Inspection of Towing Vessels notice. In response to that portion of the NPRM, one of these commenters recommended that all vessels should comply with the proposed SMS rules within 1 year. The same commenter suggested that using the ISM Code from 2002 as a guideline in developing the SMS requirements will allow for a number of operators using the AWO RCP to be compliant.

Neither our proposed rule nor this final rule would require towing companies selecting the Coast Guard compliance option to establish a safety management system. This rule provides an option for towing companies to use the ISM systems currently published in 33 CFR part 96 or other safety management systems acceptable to the Coast Guard under § 138.225. The Coast Guard believes that we are providing sufficient flexibility for towing companies that want to adopt the safety management system option under subchapter M.

We also received two comments on the proposed rule that opposed the TSMS. One stated that TSMS should not be the basis of any inspection regime and that any governmental inspection program should be staffed appropriately to provide for Coast Guard inspections, and asserted that having third party or other industry inspectors opens the door to profiteering or altered inspection requirements not originally intended by the regulations.

The Coast Guard views subchapter M external and internal survey programs, combined with Coast Guard oversight of vessels and organizations choosing the TSMS option, as an effective means of helping to ensure compliance with subchapter M requirements. In addition, all vessels subject to subchapter M will be inspected by the Coast Guard before obtaining a COI and at least once every 5 years. See §§ 136.210 and 136.212.

Another commenter stated that TSMS is not necessary as an option because the Coast Guard can do the inspections as outlined in subchapter T (Small Passenger Vessels) which incorporates everything that is required in subchapter M. We disagree that subchapter T is appropriate for the unique nature of towing vessel operations, which is reflected in our authorization in 46 U.S.C. 3306(j) to establish an SMS "appropriate for the characteristics, methods of operation, and nature of service of towing vessels." We believe that a towing-vessel-specific subchapter is appropriate, rather than imposing existing inspected vessel regulations on towing vessels. Towing companies that may lack the resources to develop and implement a TSMS, or choose not to, must follow the Coast Guard inspection option.

I. Third-Party Organizations (TPOs) (Part 139)

We received several comments, mostly from maritime companies, requesting that the list of approved TPOs be made available online.

The Coast Guard concurs with this recommendation and plans to publish a list of TPOs for the towing vessel industry to refer to when considering the selection of a TPO. The Towing Vessel National Center of Expertise (TVNCOE) will update and maintain the list and make it available at: *www.uscg.mil/tvncoe.*

Other commenters requested that § 139.120 be changed to include the name of the Coast Guard program office to which an organization seeking to become a TPO should submit its request.

The Coast Guard agrees. We have amended § 139.120 to identify the office and address of the TVNCOE, where such requests should be sent.

One commenter expressed concern regarding the option offered by the wording of §§ 139.115 and 139.120 for TPOs to create customized audit guidelines and tools. The commenter pointed out that the variety of audit reports could present inconsistencies during compliance checks.

As proposed, part 138, subpart D, of this final rule requires that audits must be of sufficient depth and breadth to ensure the owner or managing operator meets the requirements outlined in § 138.220. In our NPRM, we noted that an elaborate TSMS designed for large operations may be impractical for owners or managing operators with small operations, and that a small company may seek to use a significantly scaled down TSMS tailored to its operation. We acknowledge there will be variations in TSMSs. Similarly, we acknowledge that §§ 139.115 and 139.120 allows TPOs to develop customized audit guidelines and tools. The Coast Guard intends to issue guidance that may include sample checklists, job aids, and guides, but we have not changed §§ 139.115 and 139.120 based on this comment because the requirements in part 138, subpart D, must still be met and we do not favor more prescriptive, one-size-fits-all standards in part 139.

One commenter expressed confidence in the Coast Guard's ability to oversee the inspection of towing vessels conducted by classification societies. We received other comments expressing support for the use of qualified or trained third-party auditors and surveyors. Also, several maritime companies and a professional association supported Coast Guard's proposal to allow smaller entities, other than recognized classification societies, to apply for Coast Guard approval.

Under proposed § 139.110 a recognized classification society automatically would have met the requirements of a TPO for the purposes of part 139. However, as noted above, we have amended § 139.110 to clarify the distinction between audits and surveys. A recognized classification society meets the requirements of a TPO for the purpose of performing audits. An authorized classification society meets the requirements of a TPO for the purpose of performing surveys. We did this to ensure the Coast Guard has evaluated the classification society's ability to carry out vessel surveys. We added a definition in § 136.110 of "authorized classification society" for clarity. Paragraph (c) of § 139.110 has been amended to specify that organizations qualifying as TPOs under paragraphs (a) or (b) of that section must ensure that employees providing services under part 139 hold proper qualifications for the particular type of service being performed. We also note that the criteria stated in our TPO application section, § 139.120, allow small entities to become TPOs. As we defined it, the term "third-party organization" is used to describe an organization approved by the Coast Guard to conduct independent verifications to assess whether TSMSs and towing vessels comply with applicable requirements contained in this subchapter.

All auditors and surveyors approved to conduct subchapter M external surveys and audits would be part of a TPO. We set standards for auditors and surveyors in § 139.130, but these are used in conjunction with § 139.120 where we require TPO applicants to list the organization's auditors and surveyors who meet the requirements of § 139.130. On further review of § 139.130(a), the Coast Guard realized it makes sense to include "surveyor" in this lead paragraph. The specific qualifications for an auditor and a surveyor remain in paragraphs (b) and (c), respectively. We have edited this section accordingly.

One commenter expressed concern that the requirements for TPOs would result in only classification societies qualifying to become auditors. The commenter was concerned that class society personnel are experienced in blue water shipping but not towing vessel operations.

The Coast Guard developed this rule to ensure that organizations, including small entities, with the requisite knowledge, experience, and qualifications would be eligible to become a TPO. The standards in part 139 allow organizations other than recognized classification societies to become TPOs, and meeting these standards should be within the capabilities of small entities seeking to provide such services to the towing industry.

As qualified in our discussion above, § 139.110 does not subject recognized or authorized classification societies to additional requirements for application as a TPO; however, as stated in § 139.110(c), their employees providing services under this part must have the proper qualifications in accordance with § 139.130. The Coast Guard established this requirement to ensure that employees of recognized classification societies have the proper experience in towing vessel operations in order for them to carry out TPO audits under subchapter M.

To help readers better understand that relationship, in the regulatory text of this final rule we have converted references to "approved third-party auditor" or "approved third-party surveyor" to show this relationship—*e.g.*, "surveyor or auditor from a third-party organization." Also, although we have left some difficult-to-change instances in place, we avoid using the word "approved" with TPO because, as noted above, by definition a TPO is approved.

We received several comments, particularly from maritime companies, supporting Coast Guard's oversight of third-party auditors and urging the Coast Guard to implement the approval process for third parties prior to the finalization of the rule. Commenters felt that the Coast Guard would need to ensure that a sufficient pool of third-party approvers is available prior to the increased demand created by subchapter M compliance.

The Coast Guard is aware of the concern regarding the availability of third-party organizations. Subchapter M regulations governing third-party organizations need to become effective before the Coast Guard will be able to evaluate requests from organizations seeking to become a TPO under part 139. That effective date is July 20, 2016. Also, on that date, in accordance with § 139.110, recognized classification societies and authorized classification societies may begin acting as TPOs for the purpose of conducting subchapter M audits and surveys. As we noted above, we used a phased approach in our § 136.202 deadlines for obtaining a COI so as to distribute the work load over a 6-year period from the effective date of this final rule.

A commenter suggested that the Coast Guard publish a Navigation and Vessel Inspection Circular (NVIC) that provides the qualification process for TPOs.

The Coast Guard plans to issue a guide to assist small entities, including those interested in becoming a third-party organization under subchapter M. However, we believe that part 139 is sufficiently specific. Section 139.120 identifies the information an organization would need to submit to become a TPO for purposes of subchapter M. We have amended § 139.120 so it more precisely identifies where such requests should be sent. Section 139.130 includes a list of the qualifications of auditors and surveyors that those applying to become a TPO need to use to identify that organization's auditors and surveyors who meet these requirements. The Coast Guard will consider issuing guidance if it identifies wide-spread confusion after this rule is published.

Some commenters, including maritime companies and trade associations, viewed the qualifications required for surveyors in § 139.130 as inadequate and recommended that the qualifications include sufficient background, training, and experience to qualify as a TPO. One of these commenters suggested that training for both auditors and surveyors should be provided by an independent accreditation organization. A commenter provided text edits to the language in proposed § 139.130(b)(2) and recommended several minimum education requirements for auditors and surveyors.

Section 139.130(c) already specifies a minimum level of education, skills, and experience needed for surveyors from TPOs. The ISO standard training requirement for auditors and the marine surveyor's accreditation requirement, as stated in § 139.130, incorporate a role of independent accreditation organizations in the required training for both surveyors and auditors from TPOs. The Coast Guard feels that the criteria in § 139.130, which lists qualifications of auditors and surveyors, provides a sufficient minimum level of education, skills and experience needed for third-party surveyors and auditors, and that we cannot point to evidence that higher-level-education requirements would be justified. Owners, managing operators, and TPOs can establish additional requirements at their discretion.

Some commenters suggested that the Coast Guard require surveyors to receive ISO 9000 series training.

In § 139.130 we include successful completion of an ISO 9001–2000 or 9001–2008 lead auditor/assessor course or Coast Guard recognized equivalent qualification for auditors, but not surveyors. The Coast Guard does not believe that we should add training in ISO 9001 standards as a required qualification for surveyors because surveyors conduct direct inspections of vessel equipment and systems as opposed to auditing SMS processes. In addition, the ISO does not have a 9001 equivalent for surveying at this time.

We received a comment requesting that existing qualified and certified inspectors that participate in an auditing program be "grandfathered" as approved third-party inspectors.

The Coast Guard does not intend to allow grandfathering of existing inspectors who may be participating in some form of an existing program. The Coast Guard has no oversight of these personnel and has no specified minimum qualifications for them to conduct such work. If a person with qualifications required in § 139.130 wishes to conduct subchapter M TSMS audits or survey, he or she would need to start or become part of a TPO.

We received requests for more information regarding the monitoring and removal process of auditors or third-party companies.

In § 139.145, we describe the process for a suspension of approval when the Coast Guard has determined that a TPO is not complying with the provisions of part 139. Under that process the Coast Guard will provide details to the TPO of the organization's failure to comply and provide a time period for the organization to correct its failure(s). In this final rule, we shorten § 139.145 by replacing a repeated list of procedures the Coast Guard must follow for a partial suspension with a reference pointing back to the same procedures listed in paragraph (a) for a suspension.

In § 139.150, we make clear that the Coast Guard may revoke the approval of a TPO if the organization has demonstrated a pattern or history of failing to comply with part 139, substantially deviates from the terms of the approval granted under part 139, or has failures that indicate to the Coast Guard that the organization is no longer capable of carrying out its duties as a TPO. We amended § 139.150, to provide provisions for Coast Guard notification to TPOs of actions taken under § 139.150. In terms of monitoring, we note that § 139.160 lays out means for the Coast Guard to oversee TPOs.

Two commenters requested more information regarding the reference to "Required training courses for the auditing of a Towing Safety Management System" in § 139.130(b)(4).

Paragraph (b)(4) of § 139.130 in the proposed rule listed "[s]uccessful completion of a required training course for the auditing of a Towing Safety Management System" as one of the qualifications in paragraph (b) an auditor must meet. Because auditors must meet all the qualifications listed in paragraph (b), we have deleted the redundant word "required" from paragraph (b)(4). Also, for added clarity and consistency we removed "required" from paragraph (b)(5)(ii) for the previously stated reason.

Given the nature of the towing industry, the Coast Guard believes that auditors should complete a TSMS-specific auditing course. At the time of this writing, the Coast Guard is aware of at least one TSMS Auditor course and the Coast Guard believes that additional courses will be developed once this rule becomes effective, similar to the way courses developed for auditors of ISM-based safety management systems. We anticipate that market forces will meet the demand for TSMS-specific auditing courses.

One commenter requested that the regulation be modified to only accept auditors that are U.S. citizens.

The Coast Guard disagrees with this recommendation. This commenter did not provide reasons why we should make the requested change and we find no reason to base the eligibility for becoming an auditor in a TPO on citizenship. There are towing vessels operating overseas or in U.S. jurisdictions outside of the continental U.S. Requiring that an auditor be a U.S. citizen might unnecessarily limit the availability of auditors to these vessels. Also, a recognized classification society may operate around the world and is not required to employ only U.S. citizens.

A commenter suggested that both auditors and surveyors must be accredited by an independent accreditation organization that is accepted by the Coast Guard and is organized especially for the purpose of accrediting auditors and surveyors to perform work in documenting compliance with subchapter M requirements for towing vessels. The commenter did not believe that the National Association of Marine Surveyors (NAMS), the Society of Accredited Marine Surveyors (SAMS), or another other organization should be allowed to accredit individual surveyors for purposes of subchapter M until the Coast Guard has approved the organization's accreditation processes. This commenter suggested the possibility that this accreditation process could also be done by an independent third-party auditor/surveyor accreditation organization that is accepted by the Coast Guard.

We note that, that as with other organizations, NAMS and SAMS are not required to apply for approval to the Coast Guard to accredit individual surveyors. In § 139.130, where we list qualifications for auditors and surveyors, we have removed paragraph (c)(4), which references accredited marine surveyors and NAMS and SAMS. Instead, we added "accredited marine surveyor" to a list of other relevant marine experience in paragraph (c)(2)(ii).

These edits eliminate names of specific accrediting organizations, but still include work experience as an accredited marine surveyor as a factor to be considered and identified in applications. The Coast Guard believes that accreditation is a valuable factor to consider, but not an essential one—as reflected in the proposed rule which only required that qualifications from paragraph (c)(1) (education) and one of the two remaining paragraphs, (c)(2)(i) or (ii), be met. At this time, the Coast Guard does not see the need for it to accept an independent accreditation organization for the purpose of accrediting subchapter M auditors and surveyors.

Some commenters recommended that the Coast Guard require that all TPOs provide and maintain a list of current and former auditors and surveyors.

As we proposed in the NPRM, § 139.135(a) of the final rule specifically requires TPOs to "maintain a list of current and former auditors and surveyors." In § 139.135(b), we remove the word "for approval," but retained the requirement that to add an auditor or surveyor, the TPO must submit that person's experience, background and qualifications to the Coast Guard. We note that it is the responsibility of the TPO to ensure that auditors and surveyors conducting work for their organization satisfy the qualifications requirements in § 139.130. The submissions required by § 139.135(b) will assist the Coast Guard in its continual oversight of TPOs.

A State government and a task force suggested that the Coast Guard consider developing a TPO-rating criterion that is based on the percentage of towing vessel companies (for which the TPO has issued a TSMS certificate) that the Coast Guard independently finds to have major non-conformities. If the number of companies in a given period having major non-conformities exceeds that percentage, the TPO should be automatically placed on the a "grey list," and be required to demonstrate to the Coast Guard that it is taking actions to improve its oversight/auditing program. The commenters felt that this criterion would help vessel owners and operators assess the qualification of its oversight program.

The Coast Guard will consider this recommendation after it gains experience with the implementation of these rules when developing metrics for evaluating and overseeing TPOs.

Two commenters expressed concern that a company may switch TPOs to find one that enforces compliance with subchapter M less rigorously. These commenters suggested that the Coast Guard develop a criterion to prevent towing vessel companies from "third-party organization hopping," such as a provision that if a towing vessel company changes TPOs more than once in a 5-year period, an external Coast Guard inspection of the company's

TSMS documents and vessels is automatically triggered.

The Coast Guard acknowledges that a company may seek to switch its TPO for the reason suggested, but a company may also change its TPO for reasons beyond its control or for reasons other than seeking to avoid full compliance with subchapter M. Because switching TPOs is not necessarily a reason to focus more attention on a given company, the Coast Guard would be reluctant to adopt the more-than-once-in-5-years metric suggested by the commenters, but it does acknowledge that changing TPOs could be a signal that more scrutiny should be focused on a company. We note that the monetary costs and the loss of time associated with such changes will be factors a company would consider before switching to a different TPO, and therefore we do not expect TPO switching to be a common occurrence.

Referencing §§ 139.120 and 139.155, a commenter noted that the NPRM does not specify a process for a company to follow if it needs to appeal a decision of its TPO to deny or revoke issuance of a TSMS certificate. The commenter also noted that the Coast Guard must create a specific appeals process because towing vessel companies with a TSMS are dependent on third-party documentation to obtain a COI. The commenter wrote that the proposed rule required third parties to develop procedures for appeals, and allows a company to follow existing, general appeals procedures, but that more detail is needed.

The Coast Guard has provided a specific appeal process in this final rule. As reflected in above, in § 136.180 we stated that any person directly affected by a decision or action taken under this subchapter by or on behalf of the Coast Guard, may appeal in accordance with subpart 1.03 in subchapter A of this chapter. We have added § 1.03–55 to identify the Coast Guard official or office appeals should be directed to, including the appeal of matters relating to action of a third party, such as when a third party rescinds a TSMS certificate.

A commenter expressed concern regarding a potential conflict of interest for companies that develop TSMSs or provide TSMS-related training sessions. The commenter said that such a company would not be able to objectively inspect systems that they developed because finding fault with the towing company would be a reflection on their own work. Moreover, this commenter saw a related potential conflict of interest resulting if the only companies that could be hired to conduct surveys and audits were those that didn't develop the TSMS. In that situation, the commenter noted, it may be the developer's direct competitor who is hired as the TPO and that competitor would have a natural tendency to be biased against programs that look different from the ones it produces.

Section 139.120(o) requires TPO applicants to disclose any potential conflicts of interest. Section 139.120(p) requires applicants to submit a statement to the Coast Guard stating that their employees who are engaged in audits and surveys will not engage in any activities that could result in a conflict of interest, which we define in § 136.110, or that could otherwise limit the independent judgment of the auditor, surveyor, or organization. And under § 139.150(a)(3), conflicts of interest are a factor the Coast Guard may consider when deciding whether to revoke the approval of a TPO. An organization does not have to be a TPO to develop or help implement a TSMS, but a TPO is the only entity that can verify compliance with a TSMS or issue a TSMS certificate.

One company stated that an organization should be assigned to oversee the third-party process in order to ensure consistency in the use of resource materials and tools. Another commenter asked what process would be in place to oversee TPO training and approvals.

As reflected in the NPRM and this final rule, the Coast Guard will provide direct oversight of TPOs. A list of Coast Guard oversight activities appears in § 139.160. This oversight is intended to ensure that TPOs that conduct audits and surveys for towing vessels subject to this subchapter comply with part 139 requirements. To the extent consistency in the use of resource materials and tools by TPOs is required by part 139, the Coast Guard will provide the oversight requested. To the extent it is not, we view the requested oversight as an area best left to market forces. In reviewing proposed § 139.160(g), which discussed the Coast Guard being able to require a replacement for noncompliance or poor performance, we deleted that paragraph because it is covered by suspension provisions in § 139.145(b).

We received a comment from a towing company that felt that because of limited Coast Guard resources, relying on third-party auditors would be a solution to the increase in demand for inspections after implementation of subchapter M.

We concur that the use of TPOs under the TSMS option may reduce the number of Coast Guard inspections required to implement subchapter M.

We received comments from towing companies and professional associations that suggested that TPO requirements in proposed § 139.160(f) and (g) be moved to § 138.510 because of the discussion of owner and managing operator compliance oversight of TSMS. One commenter suggested that § 139.160(f) be moved under § 138.400.

The Coast Guard disagrees with these recommendations. Section 139.160 lists discretionary oversight activities the Coast Guard employs in its oversight of TPOs. These oversight activities should not be moved under § 138.510, which describes the Coast Guard's authority to direct owners, managing operators, and third parties to explain or demonstrate portions of the TSMS when there is evidence that the TSMS is not in compliance with part 138 requirements, nor under § 138.400, which addresses audits of safety management systems. We did remove § 139.160(g), however, because it is covered by suspension provisions in § 139.145(b), and we also removed proposed paragraph (c) because there was no need for us to refer to assigning personnel to observe or participate in audits or surveys.

A commenter suggested that the Coast Guard open communications with stakeholders to become better informed of options to ensure consistency in the auditing process.

The Coast Guard established the TVNCOE in 2010 to help promote consistency in the regulation of towing vessels and to promote communications between the Coast Guard and industry as we moved towards certification of towing vessels. The TVNCOE communicates routinely through their national customer service representatives, list server, and Web site (*http://www.uscg.mil/tvncoe*) with those who will be subject to subchapter M requirements. As the Coast Guard approving authority for TPOs, TVNCOE will have oversight responsibilities to assure consistency with the auditing process.

One commenter said that the Coast Guard needs to "assure the integrity" of the third-party approval system.

The Coast Guard expects that by using a single entity, the TVNCOE, to review and approve TPOs, the Coast Guard will ensure consistency and integrity in the subchapter M TPO system.

A commenter felt that in the context of part 139, it is not clear if a third-party auditor needs to be associated with a TPO or if an auditor can be approved as an independent operation.

The Coast Guard notes that to perform external audits under subchapter M, the auditor must be listed by a TPO as one of its auditors who meets the requirements of § 139.130. This individual need not be exclusively employed by a single TPO. It would be possible for a single auditor—who worked in a remote location, for example—to work for more than one TPO. As previously mentioned, the Coast Guard has revised language in this final rule to make it clear that under subchapter M, external surveys and audits must be conducted by auditors and surveyors who are part of—and subject to oversight by—a TPO.

An individual noted that part 139 does not contain procedures on how to conduct a damage survey of a vessel.

Part 139 deals with TPOs and would not contain requirements relating to a damage survey. Surveys are generally discussed in part 137. Section 137.300(b) discusses an OCMI's ability to require further examination of the vessel in the event of damage. In addition, if the vessel is damaged, § 136.240 addresses how to obtain permission to proceed for repairs. The extent of a given vessel's damage and other circumstances may warrant specific survey requirements.

One towing company suggested the need for a peer auditing program to assess consistency and competency among TPO auditors and surveyors.

TPOs will be required to adhere to ISO 9001 standards for operating in accordance with a Quality Management System, and their auditors must have completed training in ISO 9001 Quality Management Systems Auditing. We list "accredited marine surveyor" in § 139.130, along with other-relevant-marine-experience, as a non-mandatory qualification for surveyors.

We do not agree with the commenter that supplemental peer-review of TPO auditors and surveyors is warranted or necessary. We note that the work of surveyors will be subject to audits, and as noted above in our discussion of § 139.160, the Coast Guard will be overseeing the work of TPOs.

An individual argued that the intent of the term "third party" is to explain that the Coast Guard is a third party to towing vessels and the term should not apply to the organizations to which the Coast Guard is delegating authority.

The Coast Guard does not use the term "third party" in the way suggested by this commenter. We use the term to refer to a TPO, which we define as "an organization approved by the Coast Guard to conduct independent verifications to assess whether towing vessels or their TSMSs comply with applicable requirements contained in this subchapter." As previously noted, we have made changes to clarify our third-party references in this rule, but we have made no changes from the proposed rule based on this comment.

As noted above in our discussion of comments related to part 138, we removed § 139.170 because those attendance provisions are already stated in parts 137 and 138.

J. Operations (Part 140)

We received many general comments from individuals, companies, and associations concerning our operational requirements in part 140.

Two commenters noted that the purpose section of part 140 does not explain how the Coast Guard will ensure that non-TSMS operating companies comply with the regulations because these companies do not have documented written procedures and are not subject to audits. One commenter expressed concern that non-TSMS companies would have lower operation costs and their services would be less safe.

In the NPRM, the Coast Guard offered the TSMS or Coast Guard annual inspection option. For vessels that do not choose the TSMS option, we will use Coast Guard inspections to verify compliance with the requirements of this subchapter. We are confident that the Coast Guard annual inspection option will help to ensure that towing vessels are operated at an appropriate level of safety. The casualty reviews presented in the benefits chapter of the Regulatory Analysis found many instances in which the Coast Guard inspection and TSMS options were rated the same in risk reduction benefits and other cases where the TSMS options scored higher. If a company believes the Coast Guard inspection option is more cost-effective than a TSMS, this rule provides the flexibility for that choice. We have made no changes from the proposed rule based on this comment.

In reviewing § 140.200, and similar sections in parts 141 through 144 which state that if a TSMS is applicable to the vessel it must have provisions for compliance with that part, we decided to delete those sections. They are unnecessary because part 138 addresses what the TSMS must cover regarding all subchapter M requirements.

A company noted that the list of mariners required to have a Transportation Worker Identification Credential (TWIC) by § 140.205(e)'s reference to 33 CFR 101.105 is too broad and should instead be the same requirement as under 33 CFR 101.515. Further, an individual noted that the rule did not have language explaining the requirement for TWIC cards for individual employees on vessels moving certain dangerous cargo.

In part 140, subpart B, which includes § 140.205, we do require that the vessel be operated in accordance with applicable laws and regulations, but there is no explicitly stated requirement for personnel to hold a TWIC. The Coast Guard understands the problem with § 140.205(e)'s reference to 33 CFR 101.105, and in the final rule we removed that reference and replaced it with the personal identification requirements of 33 CFR 101.515—which do not require personnel to have a TWIC.

One commenter suggested that complete background checks for employees should not be required for those crewmembers who are required to obtain a TWIC.

The Coast Guard notes that in general a background check is included as part of receiving a TWIC, and we also note that we are not requiring background checks in these regulations.

Regarding a Master's authority on board, an individual suggested that proposed § 140.210 ensure that the TSMS contains a clear statement emphasizing the master's authority.

The Coast Guard proposed in § 140.210(b) that the master must take adequate corrective action or cease operations when he or she believes that an unsafe condition exists. Moreover, § 140.210(c) further states that the master has the authority to take steps deemed necessary and prudent to assist vessels in distress or for other emergency conditions. The Coast Guard believes that these requirements are sufficient to provide the master of the vessel the appropriate latitude and discretion to exercise his or her duties to ensure the safety of the vessel. In reviewing § 140.210, we have added the officer in charge of a navigational watch as also having the responsibility to cease operation or take adequate corrective action if he or she believes it is unsafe for the vessel to proceed. Also, we amended § 140.210(d) to indicate that the crew must ensure that either the master or the officer in charge of a navigational watch is made aware of the vessel's condition. And in § 140.605 we moved a requirement into paragraph (a) that was covered by proposed paragraph (c) and added "or officer in charge of a navigational watch" in the discussion of determining if the vessel meets all stability requirements before getting underway. We made similar revisions to the requirements for master or officer in charge of a navigational watch in §§ 140.610(c) (hatches and openings) and 140.615(b) (tests and examinations).

One commenter felt that if the language in § 140.210(d) is intended for crew members who are responsible for maintaining a vessel's COI, then the Coast Guard should require that the vessel's TSMS contain a provision requiring that crew members receive training on how to complete the tasks assigned to them by the TSMS and how to comply with the COI.

The Coast Guard proposed in § 138.220(b)(2)(ii) that the TSMS contain a policy relating to training personnel in "duties associated with the execution of the TSMS." The Coast Guard believes that this requirement is sufficient to ensure that crew members are aware of their duties under the TSMS. We have made no changes from the proposed rule based on this comment.

A company suggested that the term "pilot" would be more appropriate instead of "mate" in § 140.210(c). Another commenter suggested that "mate (pilot)" be deleted from § 140.210(c) because its current use suggested that the mate and master were equal, rather than the master having the ultimate authority on the ship. Alternatively, the commenter suggested that language be added to § 140.210(c) stating that the mate must inform the master before deviating from the COI if time and circumstances permit.

The Coast Guard recognizes that throughout the diverse towing industry there are differences in terminology, including in the use of "pilot" or "mate." For purposes of consistency with other sections, the Coast Guard has chosen to use the terms "master or mate (pilot)" in this rule, or "officer in charge of a (or the) navigational watch" as appropriate, as they are the most common currently applied terms in related regulations and policy, including manning regulations in 46 CFR part 15. The Coast Guard does not agree with the comment about "mate (pilot)" because we are simply referring to the responsibility of the person in charge of the navigational watch. The Master retains overall responsibility for the safety of the towing vessel as prescribed in § 140.210(a). We have made no changes from the proposed rule based on this comment.

We received two comments suggesting the development of a policy to restrict the use of cell phones and other non-essential electronic devices by pilothouse watchstanders.

The Coast Guard has added language in § 140.210(d) requiring the crew to minimize distractions when performing duties. This amendment is intended to prevent the non-essential use of cell phones and other distractions that take away from a crewmember's situational awareness. Given the commenters' focus on pilothouse watchstanders, we have amended § 140.640 to expressly require the officer in charge of a navigational watch to maintain situational awareness and minimize distractions.

We received two comments suggesting that either the word "lookout" be deleted from § 140.400(c), or that the word be changed to the phrase "supplemental lookout." They argued that the term "lookout" was superfluous because the master or mate serves as his or her own lookout.

The Coast Guard is requiring in § 140.400 that a record be maintained for all watchstanders going on and off watch. Lookouts are added by the master or mate (pilot) under the provisions of § 140.630. This does not preclude the Master or Mate (Pilot) from acting as a lookout, when appropriate. Section 140.400 requires that lookouts and all other members of the navigation watchstanding team must have times of service entered and recorded. Our addition of "officer in charge of a navigational watch" to the list of watchstanders does not change our need to include lookouts.

We received comments from an individual and an association who recommended that the Coast Guard should require that any mariner, engineer, or watchstander that works in the engine room, or near machinery, be provided with initial safety training and additional training on the operation and maintenance of installed machinery prior to beginning work in these areas.

In §§ 140.410(b)(10) and 140.515, the Coast Guard specifically requires safety orientation training on the awareness of and expected response to any hazards inherent to the operation of the towing vessel which may pose a threat to life, property, or the environment. Section 15.405 of 46 CFR requires that crewmembers be familiar with the relevant characteristics of the vessel prior to assuming their duties and responsibilities, including the main propulsion and auxiliary machinery, such as steering gear systems and controls. We have amended §§ 140.405 and 140.410 to note that personnel must meet the requirements in §§ 15.405 and 15.1105 as appropriate. In § 140.405, we also added threats to the environment during an emergency as situations when the duties and duty stations of each person onboard must be identified; this amendment is consistent with general vessel operation objectives stated in § 140.205(a).

Under §§ 140.510 and 140.515, it is the responsibility of the owner or managing operator to identify the unique training required to mitigate the risk to the specific machinery and operating equipment aboard each particular towing vessel.

Several commenters suggested that proposed § 140.415 include the following text in the "reserved" paragraph: "A safety orientation need not be provided to an individual that is not a crewmember if that individual is accompanied while on board the towing vessel by a crewmember who is familiar with the items specified in § 140.415(a)."

The Coast Guard does not agree. The Coast Guard believes it is unreasonable to assume that during an emergency the escorting crewman would have no other responsibilities or duties other than escorting the individual at all times while aboard the vessel. The Coast Guard believes that a safety orientation for individuals visiting the vessel would not place an undue burden in terms of time or distraction. The Coast Guard has made no changes from the proposed rule based on these comments. However, note that for simplicity we have removed the "reserved" paragraph, made the previous paragraph (a) into introductory text, and made the previous subparagraphs of (a) into paragraphs (a) through (d), as appropriate.

One commenter asked for clarity regarding specific drills and training that would be required in § 140.420(a), and thought that the requirement of drills to respond to "other threats to life, property, or the environment" was too ambiguous. Another noted that additional requirements for first-aid trainings should be included in the regulation.

The Coast Guard in § 140.420(a) provided specific emergency drills that must be performed. This includes abandoning the vessel, recovering persons from the water, responding to onboard fires and flooding, or responding to other threats to life, property, or the environment. The owner or managing operator is responsible for identifying any other additional training and drills required in addition to the above identified requirements based on the specific intended service of their vessels. This may be covered by the required risk assessment for TSMS vessels.

The Coast Guard has made no changes from the proposed rule based on these comments.

We received a recommendation for text additions to proposed § 140.420 that included the option for "e-learning" for emergency drills and trainings. The commenters suggested that the Coast Guard not require follow-on discussions with a subject matter expert if the "e-learning" provides scoring at the completion of training and the individual receives a score higher than the minimum required by the TSMS.

The Coast Guard in § 140.420(e) specifically provides for alternative forms of instruction for the training aspect of § 140.420; however, the participation in emergency drills must take place on board the vessel so far as practicable. This section permits training required by this rule to be conducted by viewing electronically or digitally formatted training materials followed by a live discussion led by someone familiar with the subject matter. The Coast Guard believes that follow-on discussions with members of the crew and interactive discussions provide insights into the specific functions of emergency procedures aboard a particular ship and allow crew members to individually and collectively discuss specific actions and expectations of each other during drills or actual emergencies. Further, to ensure that the alternative form of instruction is sufficient, we amended § 140.420(e) by adding requirements that a competent individual provide a demonstration using equipment that is the subject of the training.

We received several comments on § 140.420(d). An individual noted that "rescue boat" was not defined in § 136.110. The commenter questioned whether the Coast Guard was using the terms "skiff" and "rescue boat" synonymously in § 140.420(d) and requested that the Coast Guard define "rescue boat" if "rescue boat" and "skiff" were intended to be different vessels. Another commenter felt that requiring a safety orientation for crewmembers to be conducted annually as proposed in § 140.420(d)(1) was unnecessary and burdensome.

The Coast Guard recognizes "skiffs" and "rescue boats" as different types of vessels and did not use them interchangeably in § 140.420(d). The Coast Guard agrees that "rescue boat" should be defined and has amended § 136.110 to provide a definition.

As for the second comment, the Coast Guard agrees and has removed proposed § 140.420(d)(1), which contains the requirement for an annual safety orientation. The requirements for when a safety orientation should be conducted can be found in § 140.410(b). The Coast Guard has amended that paragraph to clarify that a safety orientation is required for a crewmember prior to that crewmember getting underway for the first time on a particular towing vessel. Also, in § 140.410(c) we corrected a reference to "new vessel," by switching it to "other vessel" regarding requirements for safety orientation provided to crewmembers who received a safety orientation on another vessel. Furthermore in § 140.410(d) we amended paragraph (d)(3) to require the signature in addition to name of those providing training.

In reviewing § 140.420(d), we added paragraph (d)(5) which states that credentialed mariners holding an officer endorsement do not require the instruction listed in paragraph (d) with the exception of launching a skiff, if one is listed as an item of emergency equipment to abandon ship or recover persons overboard. We added a similar provision in § 140.645(c) for credentialed mariners holding Able Seaman or officer endorsements regarding navigation safety training requirements in § 140.645. These changes allow credentialed mariners to use their previous training to meet specified subchapter M training requirements.

One commenter suggested that the term "work vests and anti-exposure work suits" be used instead of "work vest" in § 140.430 because anti-exposure work suits are also approved under 46 CFR 160.053.

The Coast Guard does not agree with this suggestion. Vessel personnel are afforded three choices of approved equipment that they may use. In § 140.430 the Coast Guard addresses the wearing of work vests and states that life jackets, immersion suits, and work vests must all meet applicable regulations. The term "anti-exposure work suit" does not appear within 46 CFR subpart 160.053. The Coast Guard has made no changes from the proposed rule based on these comments.

We received several comments requesting that § 140.430 permit type III Personal Flotation Devices (PFD) as an alternate to work vests. One commenter requested that work vests worn at night not require a light.

Section 140.430 provides the standard requirements for the wearing of work vests; however, companies can require the use of approved flotation devices that are of a higher type rating. The Coast Guard does not agree with the comment requesting the removal of the lighting requirement for work vests worn at night as this is an important safety feature for night time operations. We note that we did amend a reference in § 140.430 to a paragraph in § 141.340 based on amendments we made in § 141.340; we changed the paragraph reference from "(c)" to "(g)(1)."

We received several comments opposing the requirement in § 140.435(b) and (c) for small crews and low-risk environments to maintain automatic external defibrillators (AEDs) on board towing vessels. Commenters, including maritime companies, felt the proposed requirement should be removed because subchapter T, which applies to vessels in higher risk environments, does not require AEDs. Others felt that the cost of the equipment and training would be a burden on small companies. A maritime company requested that harbor boats be exempted from the requirement because of the emergency response personnel and land-based assistance available. Also, we received several comments that supported the requirement and need for AEDs on towing vessels. An individual suggested clarifying that the intent of the requirement is for vessels that are "double crewed" and not those containing "overnight accommodations." Two commenters suggested that the training for AED use should be left to the manufacturer's recommendations.

Due to the comparatively high cost of the carriage (estimated by the Coast Guard at $2,500 per unit for each vessel), maintenance, and training of AEDs on board towing vessels, the Coast Guard has decided to remove the AED requirements proposed in § 140.435(b) and (c). However, companies can elect to carry, maintain, and train crews on equipment above and beyond the scope of subchapter M requirements. Owners and managing operators can address AED carriage using a risk-based approach through the requirement to implement procedures to identify and mitigate health and safety hazards in § 140.510.

We received some comments on safety concerns that were not included in the NPRM. Two commenters noted that the NPRM does not include the safe remediation of asbestos and suggested either referencing OSHA regulations or other related code in the rulemaking or drafting our own regulations and adding them to the rulemaking. A commenter also expressed concerns regarding carbon monoxide exposure from exhaust leaks in the towing vessels and suggested that the Coast Guard include guidance on protection against carbon monoxide exposure.

Another commenter suggested that the Coast Guard implement a "No Smoking" policy for mariners. The same commenter and an individual requested that Coast Guard institute hearing protection programs as well. Similarly, a commenter suggested that the Coast Guard implement additional occupational safety and health regulations to protect mariners from accidental injury or death.

Another commenter said that the regulations should incorporate effective means of "severing or releasing" a chain or wire rope tow connection in the case of emergencies, noting that a fire axe cannot effectively cut such towline. Lastly, two commenters provided several suggestions for additional workplace safety regulations such as preventive maintenance programs, the incorporation of the OSHA personal injury reporting system instead of CG-form 2632 for personal injury reporting, and a hearing protection program for mariners comparable to OSHA standards for shoreside workers.

With regard to mariner safety, the Coast Guard is committed to the safe operation of vessels and the protection of mariners. Section 140.510 establishes the requirements for owners or managing operators to implement procedures to identify and mitigate health and safety hazards aboard towing vessels subject to inspection, which can include exposure to asbestos, smoking, noise, carbon monoxide, and the ability to sever or release wire or chain towlines. Regarding the comment on the use of the CG–2692, this rule implements a casualty reporting regime consistent with the requirements for other classes of inspected vessels. Further, this final rule requires that the owners and operators of these vessels develop and implement their own health and safety processes and procedures—see subpart E of part 140. The OSHA standards for shoreside workers could be used as a template for this purpose. The Coast Guard has made no change from the proposed rule based on these comments.

Finally, the Coast Guard disagrees with the comments regarding the incorporation of OSHA standards. As we noted in the NPRM, OSHA's jurisdiction on the workspace safety aspects for seamen on towing vessels subject to subchapter M will cease. However, we have endeavored to incorporate some of the OSHA requirements into the Health and Safety Plan requirements in the final rule. A commenter's recommendation that Congress transfer certain authority from OSHA to the Coast Guard is beyond the scope of this rulemaking.

We received numerous comments that objected to proposed § 140.520, which would require the owner or managing operator to maintain and provide access to medical records. Several commenters suggested that this section be deleted because medical recordkeeping is not required in subchapter T. Other commenters also felt that § 140.520 conflicted with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104–191, and should be deleted in its entirety, because under HIPAA employers do not retain medical records on employees containing diagnoses that those employees have not already seen. One commenter suggested that § 140.520(b) be deleted because it conflicted with the patient's right to know and violated HIPAA. Another commenter suggested that the section be revised to emphasize medical records confidentiality requirements that currently exist in Federal law. One commenter felt that the section should clarify what information an employer can give out under HIPAA. One commenter questioned which medical records need to be retained under § 140.520(a). Finally, another commenter suggested we amend § 140.520(a)(1) so as to require that only medical records related to pre-employment physicals, injuries occurring in the course or scope of employment, or medical procedures required by the employer be maintained.

The Coast Guard agrees in principle with the comments and deleted proposed § 140.520 from the final rule. The intent of the requirement was to ensure that owners or managing operators retain records of injuries occurring in the course or scope of employment as a result of a health and safety incident on board the vessel. However, we believe the health and safety plan required under § 140.500 already includes recordkeeping procedures addressing this issue. Also, we have amended § 140.505(a) to make clear that the owner or managing operator must maintain records of health and safety incidents that occur on board the vessel, including any medical records associated with the incidents, and that upon request, he or she must provide crewmembers with incident reports and the crewmember's own associated medical records.

One commenter suggested that the Coast Guard establish food sanitation regulations in the final rule and felt that sanitation regulations, including food sanitation, should be enforced with recognized standards using an inspection checklist. The Canada Shipping Act was cited as an example.

The Coast Guard does not agree that additional regulations are required in the final rule to address the issues of food sanitation aboard towing vessels. As we proposed, this rule requires that the owner or managing operator of the towing vessel to establish policies regarding sanitation and safe food handling. These requirements may be found in § 140.510(a)(13). Additionally, the Coast Guard has the authority during normal inspection activities to issue corrective action orders to a towing vessel to improve any unsafe condition, including unsanitary food conditions, and under § 137.220, the owner or managing operator of a towing vessel that has selected the TSMS option must examine or have examined systems, equipment, and procedures to ensure that the vessel and its equipment are suitable for the service for which the vessel is certificated, including being in compliance with part 140 of this subchapter. The Coast Guard has made no change from the proposed rule based on this comment.

A professional association noted that the potable water supply for vessels should be maintained at the same quality as for the Coast Guard's military and civilian employees. The commenter suggested that the Coast Guard issue regulations in this rulemaking that are reasonable and attainable by towing vessels. Two commenters suggested that if the water supply aboard a vessel does not satisfy tests for quality and purity the vessel owners must provide bottled water for the crew members.

The Coast Guard agrees that the condition of water supply aboard towing vessels should be of a sufficient quality that the members of the crew are not endangered. Under 46 U.S.C. 3305(a)(1)(D), the inspection process ensures that vessels subject to inspection have an adequate supply of potable water for drinking and washing. In the NPRM, the Coast Guard proposed a requirement in § 140.510(a)(13) for the owner or managing operator to implement procedures to identify and mitigate health and safety hazards regarding sanitation and safe food handling. Having an inadequate supply of safe water for sanitation purposes and for food handling is to be addressed by the owner or managing operator. To ensure that potable water is expressly addressed in § 140.510, and that there is an adequate supply of potable water for drinking, we have added a potable water supply requirement as § 140.510(a)(14).

One commenter felt that the proposed requirements in § 140.515(b) for training for individuals, other than crew members, should include more specifics on the information or training required, such as fire training and abandon-ship training. Another commenter suggested that the refresher training in § 140.515(d) be repeated every 5 years, rather than annually, because annually was excessive.

The Coast Guard does not agree that additional information on the information and training required for persons aboard towing vessels other than crew members is required in this rule to address the commenter's concerns. In § 140.415, the Coast Guard requires that individuals who are not crewmembers on board towing vessels must receive additional safety orientation prior to getting underway or as soon as practical thereafter to include issues of use of life-saving equipment, emergency procedures, emergency communications with crewmembers in case of an emergency, and prevention of falls overboard. Under § 140.515(b), the Coast Guard requires owners or managing operators to identify, specific to their towing vessel's operations, what other information or training is needed to limit the exposure of individuals to hazards onboard the vessel.

The Coast Guard believes that annual refresher training is necessary but, as reflected in § 140.515(d), the refresher training does not need to be as in-depth as the initial training. These annual training requirements parallel or mirror comparable OSHA requirements which currently apply to uninspected towing vessels. Companies have the ability to tailor this training to be less comprehensive based on the risk. We made no changes from the proposed rule based on these comments.

We received comments from individuals and companies who felt that the proposed requirement in § 140.610 to close all exterior openings on the main deck is not feasible when vessels require ventilation during hot weather, and not necessary in low water where there is no current.

Others contended that stability is not an issue on inland waterways, and that there should be no stability requirements for Western Rivers towing vessels.

The Coast Guard believes that watertight integrity and stability is a concern on any vessel, regardless of service or operating area. Towing vessels must be maintained and operated so the watertight integrity and stability of the vessel is not compromised. There is a sufficient body of historical evidence regarding towing vessel casualties in which the cause of the casualty was the lack of watertight integrity of the towing vessel. Specifically, open hatches have permitted the uncontrolled ingress of water into the towing vessel, resulting in the vessel sinking.

Within their final report on "Recommendations for the Enhancement of Towing Vessel Stability" dated September 9, 2013, TSAC provided a safety recommendation to the Coast Guard, that towing vessel operators should "close and dog watertight hatches during towing operations" to minimize the risk of down-flooding and progressive flooding of the towing vessel.

We have provided appropriate exceptions to the requirements in § 140.610(c)(1)–(3) to give sufficient flexibility to the vessel's master for crew comfort and convenience. The Coast Guard has made no changes from the proposed rule based on these comments. However, in reviewing § 140.610 on hatches and other openings, we added an express requirement, previously implied in that section, that decks and bulkheads designed to be watertight or weathertight must be maintained in that condition.

Some commenters suggested that proposed § 140.610(b) be revised as follows, "The master must ensure that all hatches, doors, and other openings that were installed to be watertight and weathertight are functioning properly."

With one amendment, the Coast Guard agrees with the suggested revision. The intent of proposed § 140.610(b) was that any fittings that crews rely on for watertight integrity and vessel safety should be operational and subject to survey. Our revision of § 140.610(b) is intended to make two things clearer. First, this paragraph covers hatches, doors, and other openings designed to be watertight or weathertight, whether or not they are currently watertight or weathertight. Second, the reference to "other openings" in this section is also intended to be limited to those designed to be watertight or weathertight.

One commenter recommended that proposed § 140.615(a) apply to all towing vessels. Another company suggested that this section only apply to vessels that are not subject to 33 CFR 164.80 regulations.

Because it would be redundant to apply § 140.615 to towing vessels subject to 33 CFR 164.480, the Coast Guard agrees with the second commenter and has not made any changes to the applicability of § 140.615 except that we replaced the term "inspection" with "examination" to avoid using different terms to describe the same action.

An individual suggested that repairs, such as repairs to navigation lights or whistles, need not be recorded as required in proposed § 140.620(d).

The Coast Guard disagrees with the commenter's suggestion that the repairs to navigational safety equipment need not be recorded. The Coast Guard believes that a record of repairs made to navigational safety equipment is a vital component of good management and recordkeeping. Documentation of repairs made to such equipment is vital to identifying systemic issues affecting the navigational safety equipment.

Additionally, if the vessel is operating in accordance with the safety management system, documentation of repairs made would serve to provide an account of materials needed and requested as well as corrective actions taken in order to address the observed deficiencies. The Coast Guard has made no changes from the proposed rule based on this comment.

We received comments from a State government and a task force asserting that the Coast Guard should add language to § 140.620 requiring that vessels carrying oil or hazardous material in bulk immediately notify the COTP or OCMI when navigational safety equipment fails and cannot be immediately repaired.

The Coast Guard does not agree with the commenters' suggestion that additional requirements for reporting are necessary in this rulemaking. In accordance with 33 CFR 164.53(a), a towing vessel may continue to the next port of call should navigation safety equipment fail, subject to the direction of the District Commander or the Captain of the Port as provided by 33 CFR part 160. A towing vessel is required by 33 CFR 164.53(b) to report to the Coast Guard the loss of critical navigation safety equipment to include radar, radio navigation receivers, Gyro compass, echo-depth sounding devices, or primary steering gear. The Coast Guard believes that these existing requirements are sufficient to ensure safety for towing vessel operations, and we have made no changes from the proposed rule based on these comments. We inserted examples of navigation safety equipment in § 140.620(c), but left the repair-promptly requirements in that section clearly applicable to all navigation safety equipment.

Similarly, after further review of § 140.625, the Coast Guard decided not to repeat the list (of topics for special attention) already contained in 33 CFR 164.78; instead we refer to that CFR section in a note, and point to the TSMS, where such a list is more appropriately maintained.

We received several comments, from maritime companies and individuals who felt that proposed § 140.630 should be deleted from the NPRM. Several companies felt that because lookouts are included in Rule 5 of the Inland and International Navigation Rules (33 CFR 83.05), the section is redundant for subchapter M. Two commenters suggested that because lookouts for inspected crew boats are not required in subchapter T, they should not be required in subchapter M. An individual asserted that the words "dedicated" or "designated" should be included before the word "lookout" to make it clear that a lookout position would be in addition to a watch-standing officer. A State government and task force member supported a second person for bridge watch for all towing vessel tank barges carrying oil or hazardous material in bulk.

The Coast Guard does not agree that the requirements of proposed § 140.630 should be altered or removed from the rule. The Coast Guard agrees that Rule 5 of the Navigation Rules clearly identifies the need to maintain a lookout at all times while underway. The Coast Guard believes that the additional language provided in § 140.630 ensures that owners and managing operators of towing vessels have greater clarity on expectations and thresholds of performance for the placement of additional lookouts to maintain a state of vigilance whenever significant change in the operational environment occurs. This section makes clear that responsibility for navigational safety rests with the master and mate (pilot) of the towing vessel. Subchapter M establishes requirements for a class of vessels that have different operational risks than those covered by subchapter T. As for the requirement for a second person for bridge watch for all towing vessel tank barges carrying oil or hazardous material in bulk, the Coast Guard believes that § 140.630 gives the Master the proper authority to establish an appropriate number of lookouts based on the conditions and other factors. To clarify the interaction of Rule 5 and 46 CFR 140.630, the Coast Guard has made changes from the proposed rule based on these comments.

We received a comment suggesting that because navigation assessment is covered in other regulations, it should be eliminated from § 140.635. The commenter felt that because navigation watches are included in Navigation Rules 6, 7(a) and 8(a), it would be redundant to include them in subchapter M. Companies also stated that a navigation assessment should not be required in subchapter M because it is not required in subchapter T.

The Coast Guard does not agree with the commenter's suggestion to remove § 140.635. The requirements of § 140.635 provide additional guidance and requirements for the vessel's master or mate (pilot) to ensure that the proper planning is conducted and that sufficient resources, personnel and equipment are available to mitigate the identified risks. In addition, subchapter M establishes requirements for a class of vessels that have different operational risks than those covered by subchapter T. The size of a towing vessel's tow may be large and continually changing, and more challenging to navigate than a small passenger vessel which has a consistent size. Also, varying heights of the tow—the tow's air draft—must be considered to determine if a tow is low enough to clear bridges along the towing vessels intended route. In contrast, the height of small passenger vessels normally remains constant. The Coast Guard has made no changes from the proposed rule based on this comment.

Two commenters felt that a navigation assessment should be included in a company's TSMS and not included in the final rule. We received some comments that were in support of this provision. Three commenters suggested that navigation watch assessment language should be revised in accordance with the 2006[4] or 2008[5] TSAC recommendations on navigation watch assessments. An individual suggested that only vessels that transit in large areas should be required to have a navigation watch assessment. Two commenters felt that it was too burdensome to conduct and document a navigation assessment for each voyage the vessel makes in a watch.

The Coast Guard disagrees with the commenters' suggestion that the requirement for a navigation assessment should not be included as part of this rule but rather, be required in the company's TSMS. Not all companies or vessels are required to have a TSMS. Therefore, we have included these requirements here in part 140.

The Coast Guard disagrees that the navigation assessment requirements will be overly burdensome. As noted by another commenter, the activities in the navigation assessment are required by Navigation Rules 6, 7(a) and 8(a), and the best practice of prudent seamanship. In the cases where the navigation assessment is not being fully implemented as current practice, we estimate that an additional 0.2 hours per operating day of effort would be needed to meet the requirements in the final rule. We believe that subchapter M requirements for conducting navigation assessments prior to getting underway or while underway will ensure that officers in charge of the navigation watch have the most up-to-date information in order to assess operational risks as well as to anticipate and manage workload demands during the voyage.

The Coast Guard believes that the requirements for the navigation assessment have taken into account the safety recommendations and other guidance received from TSAC. The TSAC recommendations were based on the premise that the details of the navigational assessment requirements would be contained in the TSMS. However, not all vessels will be under the TSMS scheme. Therefore we are separately including the navigation assesmment requirements here. The core elements of the recommendations, to identify risk and to take into account the unique characteristics of the tow, are included in this rule.

Finally, the Coast Guard does not agree with the commenter's suggestion that only vessels that transit in "large areas" should be required to meet this requirement for navigational assessment. The term "large areas" does not provide sufficient information to determine the boundaries envisioned by the commenter. Furthermore, navigation assessments have value not only for transits of large areas or of prolonged duration but also for transits in smaller areas or of short duration; shorter transits may also contain risks such as bridges, high winds, or swift currents. This requirement reflects good seamanship and best practices, and does not pose an undue burden to the mariner. The Coast Guard has made no changes from the proposed rule based on this comment.

A State government and task force suggested that the Coast Guard require vessels towing tank barges that carry oil or hazardous material in bulk to develop a coastal and inland checklist to determine if weather conditions make it safe to proceed, and require personnel to complete the checklist before departure and retain it for Coast Guard inspection. These commenters also suggested we add language to proposed § 140.625 to require a qualified licensed officer to be in charge of the navigation of the vessel, as stated in 33 CFR 164.11.

The Coast Guard does not agree that additional language is required to address the commenters' concerns. Required tests, examinations, and assessments for personnel operating towing vessels are provided in §§ 140.615 and 140.635. Section 140.635(a)(3) specifically requires that the person in charge of the navigation watch assess the "weather conditions and changes anticipated along the intended route" prior to getting underway. The Coast Guard believes that § 140.635(a)(3) and other required considerations of the navigation assessment are sufficient to reduce operational risks and enhance the safety of the towing vessel and its tows.

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[4] Report of the Towing Safety Advisory Committee Working Group on Towing Vessel Inspection, Task #04–03, Inspection of Towing Vessels, Sept. 7, 2006, docket ID no. USCG–2006–24412–0004.

[5] Memorandum from the Towing Safety Advisory Committee Economic Analysis Working Group, Dec. 16, 2008, docket ID. No. USCG–2006–24412–0007.

The Coast Guard notes that § 140.625 clearly states that at all times, the movement of a towing vessel must be under the command of a credentialed mariner. The commenter correctly notes that existing regulations require a credentialed master or mate (pilot) to be in control of the vessel at all times while underway. The inclusion of additional language would not enhance the safety of towing vessel operations. The Coast Guard has made no changes from the proposed rule based on these comments.

We received several comments from maritime companies that suggested that because other rules address the pilothouse requirements in proposed § 140.640, it should be eliminated. Maritime companies and a trade association felt that the section should be deleted because sufficient coverage of this issue exists in §§ 140.635 and 140.645. Three commenters stated that because § 140.640 is not required in subchapter T, it should not be required in subchapter M. However, three commenters supported this provision. Two commenters felt that § 140.640 should incorporate the requirements in 33 CFR 164.80 instead of the listed requirements.

The Coast Guard does not agree with the commenters' suggestion that the requirements of § 140.640 should be removed from this rule, or that navigation assessment requirements in § 140.635, and § 140.645 navigation safety training requirements, satisfy the objective of requirements in § 140.640 which are specific to pilothouse resource management. Towing vessels have significantly different performance capabilities from vessels regulated under subchapter T. As such, these vessels require greater levels of coordinated action and information transmission between members of the navigational watch team. The TSAC reports and AWO Bridge Allision study as well as casualty data all identify human factors as a causal factor in a large percentage of casualties. The Coast Guard believes that pilothouse resource management requirements will help reduce navigational risks. While we amended § 140.640 for clarity, and as noted above in this discussion of part 140 comments to address distractions in § 140.210(d), the Coast Guard has made no changes from the proposed rule based on these comments.

We intend this rule to provide—as much as practicable—the requirements for towing vessels in a single subchapter. Not all towing vessels are subject to 33 CFR part 164. For those that are, §§ 140.625 and 140.635 note the need for some vessels to comply with requirements in 33 CFR 164.78 or 164.80.

We do view it as appropriate to tailor requirements in § 140.640 for those vessels subject to subchapter M rather than rely on existing requirements in 33 CFR 164.80. Also, we noted a tension between our statement in § 140.600 that subpart F, Vessel Operational Safety, applies to all towing vessels unless otherwise specified, and our selective repeating of this statement in certain sections. To eliminate that tension, we deleted those unnecessary and somewhat confusing references to applicability in §§ 140.625, 140.635, and 140.640. Also, § 140.600 noted that some vessels subject to subpart F remain subject to the navigation safety regulations in 33 CFR part 164. Sections 140.625, 140.635, and 140.640, as well as § 140.725, contained statements about 33 CFR part 164 applicability that we removed or moved to a note for the section because this was more informational than regulatory in nature. As discussed later in this preamble, however, we did delete §§ 140.810 and 140.815 and amended § 140.800 to retain and clarify the statement about applicability.

We received several comments from maritime companies who stated that because subchapter T does not require navigation training for deckhands, this training should not be required in § 140.645. A professional association felt that obtaining a license is enough to qualify for navigation.

The Coast Guard agrees in part with these comments. The Coast Guard recognizes that the training requirements in 46 CFR parts 11 and 12, for certain rating endorsements and all deck officer endorsements include the knowledge requirements listed in § 140.645. We included a new paragraph (c) of this section to facilitate a link with the training requirements in 46 CFR parts 11 and 12.

The Coast Guard, however, is also cognizant that not all mariners performing lookout functions are credentialed mariners therefore, we did not change the rest of § 140.645. Lookout duties may be assigned to crew members aboard towing vessels who do not have a credential as master or mate. Additionally, a crew member may be assigned temporary duties to assist the navigational watch team in the pilothouse during underway operations. It is important that those crew members serving in such capacity have a basic understanding and elementary education in the skills necessary to perform any safety duties assigned to them aboard towing vessel.

One commenter suggested that "fuel" also be included in the list of materials in § 140.655(c) that should not be intentionally drained into bilges.

The Coast Guard agrees that the drainage of fuel into the bilge poses a danger to the safety of towing vessel operations and the environment. Section 140.655(c) prohibits a person from intentionally draining oil or other hazardous material into the bilge of a towing vessel from any source. The Coast Guard intended the reference to "oil or hazardous material" in § 140.655(c) to encompass "fuel," but to make this clear we have added a sentence adopting 33 U.S.C. 1321's definition of "oil" which includes "oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil." With the adoption of this definition for purposes of § 140.655, we deleted "and fuel" from § 140.655(b) when referencing spills during transfers. To avoid any conflicting requirements, we amended § 140.655(b)(2) regarding oil spill containment capacity to limit it to situations when the requirements in 33 CFR 155.320 do not apply.

We received several comments about § 140.655(c) from companies suggesting that because the prevention of oil and garbage pollution is already a requirement under other rules, such as 33 CFR 155.770, the Oil Pollution Act of 1990, and the International Convention for the Prevention of Pollution from Ships, this section should be deleted.

The Coast Guard disagrees. By expressly stating the requirement in § 140.655(c), we make clear that all vessels subject to subchapter M must comply with this requirement and the requirements stated in 33 CFR 155.770. As previously mentioned, to the extent practicable, the Coast Guard is seeking to present in one subchapter nearly all the regulations with which a towing vessel subject to this rule must comply. This regulation prohibiting the intentional draining of oil or hazardous material into the bilge is one in particular that we want to ensure those subject to subchapter M are aware of. The Coast Guard has made no changes from the proposed rule based on these comments.

A commenter stated that tests and inspections under provisions of National Fire Protection Association

(NFPA) 306, Control of Gas Hazards on Vessels, during repairs including welding, burning, or other hot work were easy to avoid on towing vessels because these vessels were not subject to Coast Guard inspection. Noting that the absence of prescriptive regulations restricts legitimate Coast Guard safety investigations to uncover the cause of accidents, the commenter recommended that the latest edition of NFPA 306, Control of Gas Hazards on Vessels, be incorporated by reference in this rule. Consistent with this recommendation, other commenters urged the Coast Guard to include a requirement for hot work operations and safety that is consistent with requirements for cargo vessels (46 CFR 91.50–1). This commenter also requested that the Coast Guard draft regulations for this rulemaking that govern the proper use of any autopilot installed on a towing vessel similar to those that apply to other classes of inspected vessels.

The Coast Guard agrees that towing vessels should have requirements for hot work operations and safety, similar to cargo vessels, and that the standard recommended is appropriate and known within the maritime industry. In response to these comments, we added § 140.665 which incorporates by reference portions of NFPA 306 in order to address Marine Chemist inspections required prior to making alterations, repairs, or other such operations involving riveting, welding, burning or like fire-producing actions.

We also added § 140.670 to address the use of auto pilot on towing vessels adopting regulations, as suggested. This regulation is similar to auto pilot regulations that apply to other classes of inspected vessels. We view these additions as needed to ensure the safe operation of towing vessels and as consistent with our proposal for a comprehensive subchapter M.

We received several comments regarding proposed § 140.725. Three maritime companies and a professional association felt that the requirement for a fathometer on vessels along the Gulf Intracoastal Waterway is not needed because the channel is "static and marked," and because the depth of the water only changes by a couple feet. An individual stated that magnetic compasses should be allowed on the Gulf Intracoastal Waterway. Another commenter thought that "electronic position fixing device" was a vague term, and suggested either that it should be defined in § 136.110 or that the definition in 33 CFR 164.41 should be incorporated in § 140.725(b)(3). This commenter also recommended that any devices installed 1 year after the effective date of the rule be required to be approved under series 165.130.

The Coast Guard does not agree with the commenters' suggestion that a fathometer is an unnecessary piece of equipment aboard towing vessels operating in the Gulf Intracoastal Waterway. The Coast Guard agrees that towing vessels operating almost solely in marked channels regularly maintained and commonly traversed have a high degree of reliability with regard to water depth. However, these towing vessels sometimes deviate from marked channels. A fathometer is a very useful tool in order to ensure that a towing vessel does not run aground and is not damaged.

The Coast Guard notes the commenter's suggestion that a magnetic compass should be allowed on the Gulf Intracoastal Waterway. There is nothing in this rule that prohibits the use of the magnetic compass on board a towing vessel when operating on the Gulf Intracoastal Waterway. In reviewing this comment, we amended § 140.725 by inserting "illuminated" before "magnetic compass" to match the illuminated requirement in that section for that alternative swing-meter, and to ensure the existing requirement that both must be readable is met.

While there is no specific definition of "electronic position fixing device" found in 33 CFR 164.41, the term is generally now understood to mean a satellite navigation receiver, since that was allowed as a stand-alone means of satisfying the requirement in 1983 (47 FR 58243, December 30, 1982) and the requirement was subsequently amended in 2011 once LORAN-based options were eliminated (76 FR 31831, June 2, 2011).

The Coast Guard does not agree that 33 CFR 164.41 needs to be incorporated in the requirements of proposed § 140.725(b)(3), but we have added a definition of "electronic position fixing device" in § 136.110 that defines the term to mean a navigation receiver that meets the requirements of 33 CFR 164.41. Also, we view the recommendation for approval under series 165.130 as being overly prescriptive to include in this final rule without first seeking comments on that specific proposal.

Note that we reorganized § 140.725 for greater clarity. We decided that paragraph (a) was unnecessary so we removed it, and we made proposed paragraph (b) into introductory text, and paragraphs (b)(1) through (4) became paragraphs (a) through (d).

One commenter suggested that the guidance in CG–543 Policy Letter 10–05 regarding carrying electronic navigation publications on U.S. vessels should be adopted in subchapter M.

The Coast Guard declines to specifically add this language into the final rule; however, on February 3, 2016, CG–NAV published NVIC 01–16, which esblishes guidance on the use of electronic charting systems and the carriage of electronic navigation pubs. NVIC 01–16 applies to towing vessels and their requirement for the carriage of navigation publications listed in § 140.705. In examining our reference to "information and equipment" in § 140.705(b), we replaced these words with "charts, maps, and nautical publications," to better reflect the section heading and the existing references in the section.

Another commenter suggested that a note should be included in § 140.705(b)(1) that in the event that only electronic charts are used, the system must be approved by the Coast Guard.

The Coast Guard does not agree. Section 140.705 already requires that if electronic charts are used, that they must be acceptable to the Coast Guard. This allows the Coast Guard to consider the system on which the charts will be displayed when determining if the charts will make safe navigation possible. The broader issue of electronic chart systems would be addressed in a separate rulemaking. The Coast Guard has made no changes from the proposed rule based on this comment.

One commenter suggested that the final rule should require that officers on watch listen to the Coast Guard Broadcast Notices to Mariners (BNM) and National Weather Service regularly to avoid hazards. The commenter also suggested that "talk-back" capabilities be available for crew members that are out of sight of the watch officer.

The Coast Guard does not agree with the commenter's suggestion to require navigational officers on watch to maintain the suggested radio watch aboard the towing vessel. Existing 33 CFR part 26 regulations address radio watch standing requirements. Moreover, whenever a vessel is operating in a Vessel Traffic Service Area, 33 CFR part 161 provides additional requirements for a towing vessel to maintain a radio watch.

Also, the Coast Guard does not agree with the commenter's suggestion that a "talk-back" requirement be made applicable for crew members that are out of sight of the watch officer. The requirements contained in § 140.640 on pilothouse resource management address information sharing procedures. Further, if the condition of the vessel or the construction of the vessel prohibits direct communication between the members of the navigation watch team, then it is the responsibility of the vessel owner or managing operator to provide the necessary equipment to ensure that communication is conducted in a manner that provides for safer operation of the vessel. The Coast Guard has made no change from the proposed rule based on these comments.

With respect to § 140.715, one commenter suggested that at least two Very High Frequency (VHF) radios capable of Digital Selective Calling be maintained on board and also that towing vessels operating outside of the VHF range have long-band medium frequency or high frequency radio equipment or a satellite system. Further, the commenter recommended that all towing vessels should be capable of receiving Maritime Safety Information Broadcasts. The commenter warned against provisions allowing cellular radios as an alternative means of required communication function. The commenter also suggested that changes to equipment be required immediately following a first inspection or no later than 5 years from the effective date of the regulations.

The Coast Guard does not agree with the commenter's suggestion. Section 140.715 reflects a performance standard from current regulations. As required by 33 CFR 164.72, as long as a continuous listening watch is maintained, the vessel is in compliance. It is the responsibility of the master to meet this performance standard. These requirements are identical to those contained 33 CFR 164.72 and 33 CFR part 26. The Coast Guard has made no change from the proposed rule based on this comment.

We received several comments from companies and individuals regarding towing safety in subpart H of part 140. One commenter suggested deleting the responsibilities listed in paragraphs (a) through (c) in proposed § 140.801 and replacing them with language from 33 CFR 164.74.

The Coast Guard does not agree with the commenter's suggestion because 33 CFR 164.74 only addresses towing astern. The Coast Guard has made no changes from the proposed rule based on this comment. However, we have added "or officer in charge of a navigational watch" to the list of parties who may be responsible for meeting the requirements of this section, for greater consistency with similar requirements elsewhere. See discussion of § 140.210 above for more.

With regard to towing vessel horsepower two commenters expressed concern that the determination of horsepower or bollard pull of the vessel in §§ 140.801 and 140.805 needed to safely maneuver the tow would be subjectively determined by the owner or managing operator of the vessel. One commenter felt that companies were not determining horsepower or bollard pull accurately, and suggested that the Coast Guard require that companies provide a document from the engine manufacturer and certified naval architect that rates the vessel's horsepower using data provided by the maker, the vessel's gear reductions ratio, and the diameter and pitch of the vessel's propeller.

The Coast Guard does not concur. We included a definition of "horsepower" in the definitions section of part 136, and we see no compelling reason to require additional testing that would not be appropriate for all towing vessels. The definition of horsepower requires that the determination of a vessel's horsepower is made by the Coast Guard or a third-party organization during the issuance of the COI, and is made using objective information issued by the manufacturer. The Coast Guard feels that the concerns regarding the determination of adequate horsepower are addressed in other sections of part 140 and are appropriately left to the master's assessment to the specific aspects of the tow, towing vessel's capability, and the prevailing conditions.

The Coast Guard has made no changes from the proposed rule based on these comments.

One commenter suggested that a reference to guidelines from the AWO RCP be included in § 140.801 because the current language of the section left too much discretion to the owners and managing operators of towing vessels. One company suggested edits to § 140.801 that would have rendered it inapplicable to excepted vessels, harbor assist vessels, vessels operating in a limited geographic area, or vessels operating on short hauls.

The Coast Guard does not agree with the commenter's suggestion concerning the inclusion of a reference to the AWO RCP. Section 140.801 requires that the owner, managing operator, or master of a towing vessel ensures compliance with the performance standards in § 140.801. Those with this responsibility may rely on a TSMS, guidance documents, or other sources in deciding how best to meet these requirements.

Also, the Coast Guard does not agree with the commenter's suggestion of altering the applicability of § 140.801. The towing gear in § 140.801 is just as important for those vessels the commenter listed as for other vessels subject to subchapter M. The Coast Guard has made no changes from the proposed rule based on these comments.

We received several comments from companies and a trade association that suggested the deletion of proposed §§ 140.815 and 140.820 concerning the inspection of towing gear and related recordkeeping. The comments suggested replacing these sections with requirements from 33 CFR 164.74 and towline and terminal gear requirements from 33 CFR 164.76. Commenters felt that this change will help reduce confusion between the towing safety regulations and these subparts. Another commenter suggested that we add text to proposed § 140.820 to augment the recordkeeping requirements.

The Coast Guard agrees with the first commenter's recommendations. We have deleted § 140.810 because § 140.615 will require that towing gear be examined before getting underway for all towing vessels not subject to 33 CFR 164.80 already, and we deleted § 140.815 because it was merely informational. We also amended § 140.820 to apply the recordkeeping to the inspections in 33 CFR 164.76 instead of § 140.815 as previously proposed.

The Coast Guard also agrees with the second comment, and we have adopted an amended version of the commenter's proposed change to § 140.820(b). We edited § 140.820 to remove "bridle" from the recordkeeping requirements for examination, because bridles are normally either attached to or are part of the barge and it would be too onerous for industry to complete this recordkeeping requirement on towing gear not under the continuous control of the towing vessel.

One commenter suggested that the description of TSMS recordkeeping should include the acceptance of electronic recordkeeping as an alternative. Also, a commenter discussing the official log book mentioned the possibility of making false or late entries. A third commenter supported the TSMS and requested that a towing vessel record as defined in § 136.110 be the exclusive form of recordkeeping for all records cited in §§ 137.135, 137.210, and 138.215.

As stated in 46 CFR 140.910(c), TVRs may be maintained electronically or on paper. For towing vessels with a TSMS, however, § 140.910(b) states that another record—other than the TVR, as provided by the TSMS, must be maintained. We agree that this TSMS record may also be in electronic or paper form. But to discourage false electronic entries, we have amended § 140.915(b) to add specific entry requirements for electronic records to include the date and time of entry and name of the person making the entry. If an error is discovered in an entry, any entries to correct the error must include the date and time of entry and name of the person making the correction and must preserve a record of the original entry being corrected.

With regard to making false or late entries, we note that under 18 U.S.C. 1001, whoever knowingly and willfully makes a materially false, fictitious, or fraudulent statement or representation with respect to reports, records, or verifications required by subchapter M regulations, may be subject to criminal penalties.

Regarding the third comment, the Coast Guard recognizes that a towing vessel owner or managing operator is required to compile records and reports in multiple formats and in separate logs and ledgers. Each of these records have relevance to the TSMS aboard a vessel and are a resource for the auditor and the surveyor to review in order to determine proof of adherence to the requirements of the Safety Management System. The Coast Guard does not wish to impose a regulatory requirement that would result in unnecessary recordkeeping requirements upon industry. Requiring all of these records to be kept in one central record system for the purposes of this rulemaking would be impractical. The owner or managing operator of the towing vessel has the latitude to tailor their Safety Management System to define the method and location of those records central to the safe operation, repair and maintenance of the towing vessel. We have not made changes from the proposed rule based on these comments.

Two commenters felt that the proposed recordkeeping requirements in §§ 140.905 and 140.910 are not consistent with the 46 U.S.C. 11304.

The Coast Guard acknowledges that while the 2010 Act was enacted in October 2010, its requirement for an official logbook in 46 U.S.C. 11304 was not addressed in our proposed rule. We are not, however, amending § 140.905 or § 140.910 in this final rule. We will consider addressing 46 U.S.C. 11304 requirements in a separate rulemaking that would apply to all vessels subject to inspection, and not just those subject to subchapter M. Further, because 46 U.S.C. 11304 makes reference to hours of service, we would again need to consider a separate rulemaking as we would want to seek comments on a specific proposal before implementing those requirements for towing vessels. We have made no changes from proposed § 140.905 or § 140.910 based on these comments.

One commenter expressed concern regarding potential inconsistencies between the unofficial and official Coast Guard logbook forms. The commenter suggested that vessels operating on the Great Lakes should be exempt from the requirement to maintain an official logbook under § 140.905.

The Coast Guard disagrees with changing § 140.905 to exempt vessels operating on the Great Lakes. The requirement to maintain an official log comes from 46 U.S.C. 11301, and § 140.905(a) reflects the language of the statute, including the exception for vessels on a voyage from a port in the United States to a port in Canada. We did make minor changes to this subpart: In § 140.910(d), we corrected a logbook reference that should have pointed to § 140.905, and in § 140.915 we added a note observing that for towing vessels subject to 46 U.S.C. 11301, there are additional logbook requirements in statute, and that § 140.915 does not alter requirements outside subchapter M to make entries in specific log books.

One commenter suggested that language from SOLAS V, regulation 28, Records of navigational activities, be considered in place of the first sentence of TVR requirements in proposed § 140.910(c). The revision would have replaced proposed language about a chronological record of events with language about activities and incidents of importance to safety of navigation of the vessel, sufficient to restore a complete record of the voyage.

The Coast Guard disagrees. The requirements of SOLAS V are designed to meet the needs of an international seagoing community and provide for much greater depth and comprehensive guidance than that of § 140.910(c). Additionally, the requirements of § 140.910(c) have been tailored for use by the domestic towing fleet and provide a reduced burden upon vessel owners and operators. In proposed § 140.915, however, we have added a reference to tests and examinations that are required by § 140.615. We believe the commenter's concern is addressed by reading § 140.910(c) in combination with the specific reporting requirements of § 140.915, as amended.

We received two comments from towing companies who felt that compliance with subpart I of part 140 would be time consuming and a burden on companies and the Coast Guard.

The Coast Guard acknowledges the documentation requirements of this portion of the rule do require some time and familiarity on the part of the crew. However, we believe the documentation will result in a higher level of operational safety and effectiveness, which improves operational performance. The time invested in complying with the recordkeeping requirements of this portion of the rule is intended to provide sufficient benefits to offset the time invested. The Coast Guard has made no changes from the proposed rule based on these comments.

Two companies requested that the definition of "towing vessel record or TVR" as stated in § 136.110 be a substitute for the official logbook, CG–706B or CG–706C, required in § 140.905.

The Coast Guard disagrees. Our definition of "towing vessel record or TVR" allows that record to take a variety of forms, "a book, notebook, or electronic record." In § 140.905 of this rule we identify vessels that are required under 46 U.S.C. 11301 to use the official logbook, and in § 140.905(b) we specify the form of the official logbook. We did not propose to alter the form of the official logbook in the NPRM, nor do we wish to do so in this final rule. The official logbook is standardized for all vessels required by statute to have it. The Coast Guard has made no changes from the proposed rule based on these comments.

We received several comments from maritime companies, an individual, and a professional association suggesting that the language in § 140.915 be clarified to state that the items must be recorded in accordance with the TSMS associated with the vessel and not recorded in the TSMS itself. The Coast Guard agrees, and amended § 140.915 to reflect this suggested change.

One commenter asserted that the language in proposed § 140.1005, Suspension and revocation, is too broad and potentially could lead to "outright abuse," in the commenter's words, of mariners for mistakes made without criminal intent. A towing company suggested the deletion of § 140.1005 because it is addressed in 46 U.S.C. 7703.

The Coast Guard disagrees. We believe it is appropriate and helpful to identify penalties that those holding a license, certificate of register, or merchant mariner credential may be subject to. Our language in § 140.1005 is similar, for example, to language in 46 CFR 185.910 in subchapter T. In reviewing § 140.1005(b) in response to this comment, we added a source reference of 46 U.S.C. 7704 in the introductory text of § 140.1005, and paragraph (d) to include a security risk element listed in 46 U.S.C. 7703.

One commenter argued that the marine industry must understand that the Coast Guard will take equal action against both mariners and companies for violations of regulations in subchapter M.

The Coast Guard has a broad range of options to enforce regulations against mariners, companies, or both. The OCMI will conduct an investigation and make determinations as to appropriate course of action, which may include civil penalties or criminal actions. The Coast Guard has made no changes from the proposed rule based on this comment.

Lastly, a towing company pointed out that the regulations are currently written to assume a male captain and suggested that revisions should be made throughout the regulations to replace gender-specific text with him or her, or his or her.

The Coast Guard agrees. We have amended the text in the final rule to ensure we consistently use gender-neutral language throughout the rule.

K. Lifesaving (Part 141)

We received several comments from maritime companies, individuals, and an association regarding lifesaving requirements in part 141. Several comments revealed misinterpretations of the proposed rule, so we have made editorial revisions throughout this part, including some rearranging, restructuring, and renumbering of the text, to improve clarity and readability.

Three maritime companies recommended deleting or revising part 141 because of lack of demonstrable risk justifying additional costs to regulated entities.

The Coast Guard analyzed the casualty data balanced against the costs associated with implementing this rule. The details of this analysis can be found below in the Regulatory Analysis section of this final rule. As is discussed in more detail there, we found that the benefit of risk reduction was commensurate to the cost or, in some cases, we revised the rule to avoid costs that exceeded the benefit. For the lifesaving requirements in part 141, the Coast Guard estimates the annualized cost to be $3.2 million, with annualized benefits of $4.4 million, resulting in a net benefit of $1.2 million per year. The positive net benefits estimate indicates that the potential risk reduction justifies the additional cost of the part.

The carriage, operation, and maintenance of certain approved lifesaving equipment is a fundamental aspect of being an inspected vessel. The Coast Guard analyzed the costs associated with implementing lifesaving provisions of this rule and concluded that the largest costs associated with the proposed rule arise from the carriage of survival craft, particularly for inland towing vessels. Noting that the operating conditions may mitigate the need for survival craft, the Coast Guard has modified the proposed requirements for survival craft as described below to reduce the impact on the towing vessel industry. The Coast Guard believes that provisions of this final rule represent the minimum requirement for safe operation of an inspected towing vessel and notes that nothing in this rule would preclude a towing vessel operator from optionally carrying survival craft as excess equipment.

In a comment on part 141, a commenter suggested that all our references to limited geographical areas should be expanded to include vessels operating in harbor services.

In part 141 we proposed that, unless required by the OCMI under § 141.305(c)(5), a towing vessel in a limited geographic area need not carry a survival craft. In this final rule, that provision is reflected in the first area-of-operation column in Table 141.305 of § 141.305 and in footnote 1 of that table. Our definition of "limited geographic areas" in § 136.110 gives the COTP the discretion to determine limited geographic areas in her or his COTP zone. We don't see a need to change that definition based on this comment, which seems more focused on ensuring that vessels engaged in harbor services share the same exceptions as those operating in a limited geographic area. A vessel that engages in harbor services may do so in multiple locations and may not always be operating in a limited geographic area, and is not necessarily exempted from carrying survival craft. A vessel that engages in harbor services within a limited geographic area as determined by the COTP, however, need not carry survival craft unless required to do so by the OCMI.

In response to general comments about having time to comply with equipment-related requirements in subchapter M, we amended § 141.105 to give existing towing vessels until the earlier of either 2 years from the effective date of this rule or the date the vessel obtains a subchapter M COI to comply with part 141 requirements. We added § 141.105(a)(2) to clarify that the delayed implementation provisions for existing vessels do not apply to new towing vessels. We also revised § 141.105(c) to include a reference to SOLAS Chapter III as this is where specific lifesaving requirements are contained in SOLAS.

Because the reference to functional requirements in proposed § 141.110 only applies to survival craft, we relocated that text to § 141.305. An individual suggested we edit proposed § 141.110 (now § 141.305) by adding "company" to those we identified ("owner or managing operator") who may choose to meet the functional requirements in this part instead of the part's prescriptive standards.

We do not agree. We do not see a need to do so because our § 136.110 definition of "managing operator" includes organizations and if a company owns the vessel, it would be covered by our definition of "owner."

The same commenter also suggested that the designated approved third party provide written recommendations to the cognizant OCMI regarding the OCMI's acceptance of functional requirements, instead of the third party directly accepting them.

We do not agree. A TPO may consult with the OCMI, but under proposed § 141.110(c) (now § 141.305(c)(2)) the TPO is free to accept a managing operator or owner's chosen means to meet the survival craft requirements of § 141.305, so long as the means are documented in the TSMS applicable to the vessel. We believe these documentation procedures are sufficient and do not see a need for the TPO to provide written recommendations to the cognizant OCMI regarding acceptance of arrangements that satisfy the functional requirements.

We did not receive comments on § 141.115, Definitions, but noted that no new definitions were proposed for this part, and removed this section. Additionally, as discussed elsewhere in this preamble, in response to requests for clarification on the appropriate approvals for lifesaving equipment, we imported the definition of "approval series" from 46 CFR 199.30 to the definition section for subchapter M and used that term in part 141 to identify the applicable approval series for each piece of equipment

We did not receive comments on the incorporation by reference section, § 141.120, but we did move the contents of that section into § 136.112 and made § 136.112 the centralized incorporation by reference section for all of subchapter M. In addition, to better organize the various technical standards used throughout subchapter M, we also consolidate central incorporation by reference sections for other parts into § 136.112.

An individual recommended that in § 141.205(a) we add "guidelines, instructions, and define level of authority" to what the TSMS must include in addition to policies and procedures. The same commenter also recommended that in paragraph (b) of that section we require the TSMS to "include procedures ensuring that nonconformities, accidents and hazardous situations are reported to the company, owner, or managing operator, investigated and analyzed with the objective of improving safety and pollution prevention," instead of simply ensuring objective evidence of compliance with the TSMS.

The Coast Guard disagrees. We have deleted § 141.205 entirely because we felt that it was redundant with part 138 in general. As for the commenter's concern, § 138.220, Towing Safety Management System (TSMS) Elements, requires that the TSMS include documentation of the management organization in detail, personnel management policies, and compliance with other requirements of this subchapter.

We did not receive comments on the general provisions section for part 141, proposed § 141.220 (now § 141.200), but the Coast Guard standardized our approval phraseology both here and throughout this subchapter and also clarified the specific approval required for each equipment type. These edits are consistent with requests discussed below regarding § 141.305 to clarify the appropriate approvals for lifesaving equipment. At the time of their inspection, every towing vessel must be properly outfitted in accordance with the route for which they are certificated. However, we further clarified in new § 141.200(c) that requirements in part 141 are based solely on the areas where a vessel operates.

We did not receive comments on § 141.225, but we found that the provisions of § 136.115 were more applicable to this part and cited this section in new § 141.225(a) to reflect § 136.115's provision that all towing vessels, not just those with a TSMS, may seek equivalencies. Similarly, we redesignated § 136.115(c) as § 141.225(c) to better align the provisions concerning equivalencies of novel lifesaving appliances or arrangements within part 141. In addition, we restructured 141.225 by replacing proposed paragraph (a) with new paragraphs (a) and (b) to clarify the intent allowing towing vessels to use alternate arrangements or equipment to meet this part. We also amended the heading of § 141.225 to better reflect this section's paragraph (d), which specifies that the cognizant OCMI may require a towing vessel to carry specialized or additional lifesaving equipment.

An individual recommended text edits to § 141.230 that would require the master to ensure that lifesaving equipment is correctly installed in addition to being properly maintained and ready for use at all times.

The Coast Guard does not agree. To the extent improperly installed lifesaving equipment would not be ready for use, the wording of § 141.230 addresses the commenter's concern. We made no changes in response to this comment.

Regarding § 141.235 and the inspection, testing, and maintenance of lifesaving equipment, we received a comment from an association suggesting that the content of 46 CFR 199.190, which we reference in § 141.235, be added as a stand-alone section in subchapter M with modifications to apply to towing vessel lifesaving equipment and to clearly specify when any necessary factory maintenance is required.

The Coast Guard does not agree. The full text of § 199.190 contains maintenance requirements for various types of lifesaving equipment, including weekly, monthly, and annual inspections and tests for lifeboats, rescue boats, and launching appliances. The majority of towing vessels will not carry this equipment. Therefore, the inclusion of the complete text of § 199.190 in subchapter M would add little value. However, § 141.235 points the operator to § 199.190 where he or she can search for the relevant testing and maintenance requirements for vessels that carry this equipment. In § 141.235, we replaced the word "examination" with "inspection" to be consistent with other related Coast Guard regulations. Also, seeking consistency with a similar provision in § 142.240, we set the records retention period to at least 1 year after the expiration of the Certificate of Inspection.

We received several comments regarding Table 141.305—Survival Craft. One commenter requested that all towing vessels be equipped with an out-of-water survival craft, like an inflatable buoyant apparatus. An individual felt that life floats and buoyant apparatus references should be deleted from the table, with the exception of references in footnotes. A trade association and individual noted two terms that should be changed; "life floats" because it was ordered removed by Congress by January 1, 2015, and the term "buoyant apparatus," which was suggested to be replaced with "approved buoyant apparatus" in order to comply with proposed § 141.305(c)(6). Another commenter suggested that we edit proposed § 141.305(b)(6) and (c)(6) by replacing "By 2015," with "After December 31, 2014," when specifying when survival craft may no longer be carried on board unless the craft ensures that no part of the individual is immersed in water.

On February 8, 2016, section 301 of the Coast Guard Authorization Act of 2015 (2015 Act), Public Law 114–120, 130 Stat. 27, revised 46 U.S.C. 3104. The deadline in our proposed § 141.305(b)(6) and (c)(6), and § 141.330(g), for a new standard for survival craft to meet to be eligible for approval—"must ensure that no part of an individual is immersed in water"—was based on provisions previously specified in 46 U.S.C. 3104. The 2015 Act limited those standards for survival craft to passenger vessels. We have therefore removed references to the deadline and those standards in § 141.305(b) and (c), and § 141.330, and made edits to align the language with the remaining functional requirements for survival craft.

We developed the cost estimates for part 141 under the requirements of 46 U.S.C. 3104 before it was amended by the 2015 Act. Specifically, we posited that owners and operators of the affected vessel population would only use inflatable buoyant apparatuses to comply with the out-of-water mandate. To the extent that affected owners and operators take advantage of the relaxation of equipment requirements provided by the 2015 Act, this will result in an over-estimate of the cost of survival craft in this rule's regulatory analysis.

As recommended, we deleted the terms "buoyant apparatus" and "life float" from the Cold Water Operation portion of Table 141.305 because neither of these items satisfied the minimum requirements for a vessel operating in cold water. In the Warm Water Operation portion of the table we removed the rows for life float and inflatable buoyant apparatus because they are not specifically called out to meet the minimum carriage requirements although they can be used as a substitute for a lower safety precedence survival craft as described in § 141.305(d). To avoid possible confusion with "inflatable buoyant apparatus," we changed "buoyant apparatus" to "rigid buoyant apparatus" throughout the final rule. Also, to accurately reflect the safety precedence hierarchy of survival craft, we moved Inflatable Liferaft with SOLAS A pack to the bottom of each list.

Also, we have revised the requirements for carriage of survival craft to exclude vessels operating in protected waters, which we have defined in § 136.110, unless survival craft are deemed necessary by the OCMI, and we have revised § 141.305(d) to allow for non-approved survival craft to be carried as excess equipment where no survival craft are required by this part, provided that the equipment is in good condition and maintained according to manufacturer's instructions.

In order to further clarify the options for complying with the functional requirements for survival craft, we have added a new paragraph to § 141.305, which includes text relocated from proposed § 141.110. Under the new § 141.305(c), the two options for complying with the functional requirements for survival craft are meeting the prescriptive requirements in § 141.305(d) or employing alternative means, acceptable to the OCMI or TPO, and documented in the TSMS, if applicable.

A towing company suggested that the table include "Rivers and Canals" as an area of operation.

The Coast Guard does not see a need for this suggested change. Table 141.305 currently lists "Rivers" as an area of operation and the definition of "rivers" in § 136.110 includes canals.

Another commenter suggested removing all rows from the table where equipment is not required. The same commenter suggested that operations that are exempt from specific equipment requirements be indicated by the word "none" in the appropriate field in the table. The Coast Guard agrees, and has revised Table 141.305 accordingly.

We received several comments regarding the footnotes in Table 141.305. Several commenters, including towing companies and associations, suggested deleting proposed footnote 1 that referenced survival craft determinations by the cognizant OCMI or as a requirement deemed necessary in the applicable TSMS. Alternatively, an individual suggested that a towing vessel operating in "limited geographic areas" be permitted to operate without survival craft.

According to footnote 1 of Table 141.305 in the final rule, survival craft are not required on towing vessels operating in limited geographical areas, "unless survival craft requirements are determined to be necessary by the cognizant OCMI or TSMS applicable to the towing vessel." Though the Coast Guard does not support requiring survival craft on towing vessels operating in limited geographic areas, unless the OCMI or TSMS deems them necessary under § 141.225, operators of these vessels are welcome to carry properly maintained survival craft as excess equipment. A towing company recommended that towing vessels operating within 1 mile of the shore should not be required to have survival craft, unless determined necessary or if it is required in the TSMS for that particular towing vessel. A maritime company suggested deleting the text, "unless determined to be necessary by the cognizant OCMI or a TSMS applicable to the towing vessel," from proposed footnote 6, but didn't provide any reasoning for this suggestion.

The Coast Guard does not agree with the proposed amendment to footnote 6. We believe this provision in proposed footnote 6 is appropriate because the OCMI (or author of the TSMS) should be able to evaluate any extenuating circumstances associated with the towing vessel's operation that would require a survival craft when in general they are not needed when the towing vessel is operating within 1 mile of shore. As noted below, however, based on another comment we did move the text of this footnote to § 141.305(d)(3)(iii).

Several commenters suggested that footnotes 5 and 6 in the table be moved into the regulatory text, and one commenter recommended deleting the reference to OCMI approval when moving the text of footnote 6.

We agree that the content of proposed footnotes 5 and 6, as well as footnote 4, should be moved into paragraph form in the regulatory text to aid the reader. Therefore, we have inserted the provisions of these footnotes into paragraphs (d)(3)(i)–(iii) of § 141.305. We disagree, however, with deleting the reference to an OCMI determination. When moving the content of proposed footnote 6, we did insert the source of the OCMI's authority to make such a determination.

One company suggested that because of fast currents in some waterways, life floats should be permitted to be retained as supplemental approved survival craft for limited applications as approved by the Coast Guard. Because of downriver flow, the time that the crew is in the water, and the time for life raft deployment, the commenter states it would be difficult for crew to swim against the Lower Mississippi River's current to catch the life raft that released and inflated a period of time after the crew member went into the water as would happen with an automatic deployment. This commenter notes that crew members in the water would have a much better chance of reaching a life float as they and it are swept downriver with the current at the same relative speed.

The Coast Guard acknowledges the commenter's concerns, and in § 141.305(d)(2)(iv) we have permitted a life float approved under approval series 160.027 to be substituted for a rigid buoyant apparatus. Also, proposed § 141.220 would have required lifesaving equipment to be of an approved type, unless otherwise specified. We amended that section, now § 141.200, to specify that lifesaving equipment for personal use need not be approved by the Commandant if it is not required by part 141. We also amended § 141.305(d) to allow the carriage of non-approved survival craft as excess equipment, provided that the equipment is maintained in good working condition according to the manufacturer's instructions.

We edited §§ 141.310 and 141.315 to make it clear that they are applicable to vessels that do not have an applicable TSMS.

As noted in our discussion of comments on § 141.305, the Coast Guard does not agree with the assumption that the vessel and its tow operating more than 1 mile from shore could make it to shore in the event of an accident. Section 141.330 does not impose a separate requirement that "other survival craft" be carried: Instead it simply sets out the requirements for a skiff if the skiff is intended to be used as a substitute for approved survival craft required by Table 141.305. Table 141.305 prescribes the operating areas where an approved inflatable liferaft is required. As noted above, the Coast Guard has included additional text in § 141.305 prescribing the hierarchy of approved survival craft, and giving owners and operators the right to substitute a survival craft of higher precedence. For example, § 141.305(d)(3)(ii) allows an inflatable liferaft approved under approval series 160.051 or 160.151 to be substituted for an inflatable buoyant apparatus or rigid buoyant apparatus. Similarly, an inflatable buoyant apparatus approved under approval series 160.010 or life float under approval series 160.027 may be substituted for a rigid buoyant apparatus (§ 141.305(d)(3)(iii) and (iv), respectively). If the operator would prefer to use a non-approved raft as a survival craft, the functional requirements listed in § 141.305(b) would apply to the raft.

We received several comments concerning the use of skiffs. One individual noted that the proposed rule contained no requirement that a skiff comply with any requirements for safe loading or buoyancy. The commenter recommended that we amend § 141.330(a) to require compliance with 33 CFR part 183.

The Coast Guard acknowledges that, for practical purposes, recreational boats complying with 33 CFR part 183 will commonly be used as skiffs, but we share the commenters' concern regarding the potential for confusion regarding the requirements for skiffs that are used as survival craft. The Coast Guard has revised § 141.330 to—

- Clarify that skiffs may only be used as survival craft by towing vessels that do not operate more than 3 miles from shore,
- Include the source of the requirements for safe loading and capacity information (33 CFR 183.23), and
- Correct a source reference for marking requirements in paragraph (f) to match the same source we listed in § 141.315 for survival craft.

The same commenter noted that equipment referred to in proposed § 141.330(g) would be approved under 46 CFR part 159, not part 141, suggested that we edit proposed § 141.330(g) to prohibit the carriage of skiffs after December 31, 2014, unless the craft ensures that no part of the individual is immersed in water.

The Coast Guard agrees that reference to the approval of survival craft is inappropriate in part 141, and has removed proposed paragraph (g). Additionally, we have revised the title of § 141.330 from "Other survival craft" to "Skiffs as survival craft."

A commenter also suggested that we not impose size requirements on a skiff because the entire tow or the towing vessel could usually make it to shore for evacuation purposes in any type of catastrophic event, or alternatively we should include an inflatable raft as an "other survival craft."

As already discussed in the context of § 141.305, towing vessels operating in limited geographical areas or on rivers within 1 mile of shore are only required to carry survival craft if the cognizant OCMI determines that they are necessary. However, in other operating areas where we cannot assume that the vessel can make it to shore, a skiff used as a substitute for a survival craft must be capable of carrying all personnel onboard. As reflected in both § 141.330 and footnote 2 of table 141.305, vessels that operate more than 3 miles from shore may not use a skiff as a substitute for a survival craft except for those operating in warm water on the Great Lakes or Lakes, Bays and Sounds.

One commenter listed several factors that should be considered when approving existing and new "skiffs."

However, the Coast Guard does not intend to "approve" skiffs. Provided that the skiff meets the requirements of § 141.330, it may be used as a substitute for approved survival craft, as reflected in Table 141.305.

The same commenter cautioned against using the terms "skiff" and "rescue boat" interchangeably for fear of confusion between the functions of these boats.

As discussed earlier in this preamble, the Coast Guard acknowledges the commenter's concerns and has added a definition for rescue boat in § 136.110. To further reduce confusion, we have removed the proposed references to rescue boat in §§ 137.220 and 140.405, but retained them in § 140.420 to leave training or drill requirements in place for towing vessels that use a rescue boat.

Regarding the sections for lifejackets, immersion suits, and lifebuoys (§§ 141.340, 141.350, and 141.360, respectively), an individual noted that these sections do not contain provisions for vessels electing the Coast Guard inspection option.

We disagree. Sections 141.340, 141.350, and 141.360 do contain the requirements for all towing vessels, whether they elect the Coast Guard inspection option or the TSMS option.

We received several comments concerning lifejackets. Four commenters requested clarification of the requirements for lifejackets at watch stations. Three maritime companies and an association suggested that one lifejacket per watchstander be required and made accessible. Commenters felt that the requirement to store lifejackets at "watch stations" is difficult to define for deckhands because they are mobile; one commenter stated that the term "watch station" needs to be defined.

The Coast Guard does not believe that we need to define "watch station," but we make clear that lifejackets must be immediately available to those standing watch as well as to other crew. The bridge and the engine control room are examples of watch stations. As specified in § 141.340(b), for towing vessels with berthing aboard, lifejackets would need to be immediately available for watchstanders there as well as at other manned watch stations.

Two commenters asserted that the COI should list the total number of persons allowed on a vessel and state the same number of lifejackets and space in a survival craft be available.

An inspected vessel's COI will state the total number of persons allowed on the vessel as well as applicable lifesaving equipment that is required onboard the vessel. These numbers are based on determinations made by the OCMI issuing the COI.

One commenter suggested that crew on manned barges in the Great Lakes, over 3,000 GRT, should not be required to have work vests because the personnel mostly remain on the barge, which is more stable than a tug. One commenter suggested that the requirement to provide both life jackets and work vests is redundant.

The Coast Guard agrees that the proposed Table 141.335 may have been misinterpreted to mean that work vests were required to be carried as personal lifesaving equipment. Under § 140.430, work vests are not required, but are one of three options for use by personnel dispatched from the vessel or working in an area without rails or guards. We clarified § 140.430 and removed Table 141.335, as discussed above, and we have clarified § 140.430 to indicate the appropriate use of work vests.

Another towing company recommended that proposed § 141.335 should clarify that immersion suits are not required on towing vessels that travel along inland or Western Rivers. The commenter noted that proposed Table 141.335 indicated that immersion suits are not required on vessels travelling on limited geographic areas or rivers, but it does require immersion suits on vessels travelling on lakes, bays, and sounds and that there are many lakes that fit subchapter M's definition of lakes, bays, and sounds along the inland and Western Rivers that are simply part of a vessel's route, or an area to drop off barges.

The Coast Guard disagrees with this recommendation. In our immersion suit requirements in § 141.350, the allowance for towing vessels operating on rivers or in limited geographical areas to not carry immersion suits assumes that rescue or emergency assistance would be close at hand, thus limiting the duration that a person would be immersed in cold water. We cannot make this same assumption on lakes, bays, and sounds. We have not made changes from the proposed rule based on this comment.

The Coast Guard removed proposed § 141.335 and Table 141.335 because they contained the same information as § 141.340 and § 141.350.

We revised proposed § 141.340(d), now § 141.340(c), to clarify that the option to use alternative means to comply with the lifejacket requirements also applies to non-TSMS vessels, and to cross reference back to § 141.225.

Several commenters, including maritime companies, suggested that a paragraph be added to note that lifejackets that are stored on open racks, where the jackets are clearly seen, do not need labels.

The Coast Guard agrees that clarification was necessary, so we have revised and consolidated proposed § 141.340(e) and (f) into new § 141.340(h) to make clear that the stowage location marking requirements only apply to lifejackets stowed in a berthing space, stateroom, or lifejacket container, including those stored in racks in these types of interior spaces. The Coast Guard has made additional editorial revisions to this section to remove redundancies and to locate all lifejacket requirements in this section, rather than cross-referencing 46 CFR subchapter W, and we have made amendments to §§ 199.01 and 199.10 of subchapter W, to clarify that subchapter W does not apply to towing vessels. We also numbered the rows of Table 199.10(a), to aid any possible future edits.

A towing company suggested amending proposed § 141.340(d) to be consistent with TSAC recommendations for stowing lifejackets. This particular TSAC recommendation refers to the TSMS option which allows alternative means to meet the requirements of this section, and also outlines language requiring the approved TSMS to specify the number and location of lifejackets to facilitate immediate accessibility at normally occupied spaces.

The Coast Guard has reviewed the TSAC recommendations and its proposed edits to draft regulatory text related to lifesaving requirements in their entirety and confirm that our revisions to proposed § 141.340(d) (now § 141.340(c)) are consistent with those recommendations.

We received comments from maritime companies and an association that recommended that the requirement for posting of placards with information regarding use of lifejackets be deleted, and that information in another format be provided on the vessel instead.

While the Coast Guard believes that proper donning and use of the PFD plays a large part in survival, we note that this information is covered by the safety orientation required by § 140.410(b). Accordingly, § 141.345 has been removed from this rulemaking.

One commenter recommended that, at a minimum, each towing vessel should be required to furnish a throwable flotation lifesaving device on the end of each barge or tow available and ready for use at all times to rapidly retrieve a person who falls overboard. The commenter noted that without a "lifebuoy" or equivalent, if a person falls overboard from a single barge tow, the nearest throwable lifesaving device may be on the towboat itself and may be 100 to more than 1,000 feet and minutes away.

The Coast Guard recognizes the commenter's concern, but the comment is outside the scope of this rulemaking. We note that on September 10, 2014, the Coast Guard published a final rule entitled, "Lifesaving Devices—Uninspected Commercial Barges and Sailing Vessels" (79 FR 53621). In the course of that rulemaking, we discussed and evaluated the feasibility of requiring lifebuoys on barges, and found the costs to outweigh the benefits. However, vessel owners or managing operators may opt to carry additional approved lifebuoys for this purpose.

A mariner's association and an individual believed that efforts towards the protection of personnel from cold weather should include the requirement of anti-exposure work suits for water temperatures below 59 degrees Fahrenheit, as cited in the NVIC 7–91. One commenter suggested that NVIC 7–91 be rewritten to include "cold water" areas found on navigable rivers in addition to its present coastwise coverage.

Consistent with recommendations in NVIC 7–91, we proposed in § 141.350 to require immersion suits for towing vessels that operate north of latitude 32° N. or south of latitude 32° S. if the vessel does not operate exclusively on rivers or in a limited geographic area. At these latitudes water temperatures drop below 59 degrees Fahrenheit during a typical year. While the Coast Guard agrees that anti-exposure work suits of the type approved by the Coast Guard under approval series 160.053 or 160.153 provide valuable thermal protection to workers on deck, they are not intended to get wet. Immersion suits are specially tested and approved for thermal protection during prolonged immersion in cold water. As in § 141.340(c) above, we revised the text in paragraph (a)(3) to clarify that the option to use alternative means to comply with the immersion suit requirements also applies to non-TSMS vessels and to cross reference back to § 141.225.

We received several comments, from maritime companies and others, requesting proposed § 141.360(a)(1) be deleted because subchapter M does not apply to vessels less than 26-feet long.

The Coast Guard does not agree. Section 136.105 makes subchapter M applicable to towing vessels of less than 26 feet if the towing vessel is pushing, pulling, or hauling a barge that is carrying oil or hazardous material in bulk, and the requirement in § 141.360(a)(1)—to carry a minimum of one lifebuoy of not less than 510 millimeters (20 inches) in diameter—applies to those towing vessels.

We received several comments from maritime companies and associations suggesting that the required number of lifebuoys on towing vessels be consistent with industry practice. On towing vessels of less than 79 feet, they suggested reducing the required number of lifebuoys to two from the proposed number of three. On towing vessels of more than 79 feet, they suggested requiring four, in lieu of what we had proposed, which was four, plus one on each side of the primary operating station and one at each alternative operating station if the vessel is so equipped.

The Coast Guard agrees that two lifebuoys are appropriate for a towing vessel between 26 and 79 feet in length, and has reduced the required number accordingly in amended § 141.360(a)(2), consistent with lifesaving regulations for inspected vessels of similar size. Similarly, the Coast Guard agrees that the proposed text appears to require more lifebuoys than is practical on a towing vessel of more than 79 feet in length, and has amended § 141.360(a)(3) to clarify the requirement by stating the minimum number of lifebuoys and their placement independently. Also, we removed reference to primary and alternative operating stations. Vessels with more than one operating station will now be required to carry lifebuoys on each side of any operating station, as practicable. We are aware that some of the operating stations may have limited space available or may not have a way to access the sides. In these cases, owners and operators need to work with the local OCMI to determine an acceptable equivalent for the operating station concerned.

As above in §§ 141.340(c) and 141.350(a)(3), we revised the text in § 141.360(a)(4) to clarify that the option to use alternative means to comply with the lifebuoy requirements also applies to non-TSMS vessels and to cross reference back to § 141.225.

Other commenters, including an association and an individual, recommended that § 141.360 require a specific commercially available throwable PFD, instead of the traditional "lifebuoy" because lifebuoys can only be thrown a relatively short distance.

The Coast Guard has revised § 141.360 to allow for throwable devices approved under approval series 160.050 or 160.150 to satisfy the prescriptive requirements of this section, provided that the vessel is not subject to SOLAS. An approved lifebuoy, or another throwable PFD approved under approval series 160.050 or 160.150 as equivalent to a lifebuoy, would satisfy this requirement. Consistent with specifying performance objectives when possible, rather than specifying the behavior or manner of compliance that regulated entities must adopt, we did not adopt the commenter's suggestion that we require a specific commercially available throwable PFD.

Regarding proposed § 141.360(b), a company suggested that the reference to release of lifebuoys in § 199.70(a)(1)(v) would not be necessary for most towing vessels, particularly those operating on inland waters. Some commenters also felt that the wording for § 141.360(b)(2) should be rewritten but did not provide suggestions.

The Coast Guard agrees that the requirements of § 199.70(a)(1)(v) is not the most appropriate for towing vessels, and further notes that the cross reference to § 199.70 in § 141.360(b) creates unnecessary confusion as to which requirements apply. The Coast Guard has revised § 141.360 to remove the reference to § 199.70(a) and to include only those requirements that are intended to apply to lifebuoys on towing vessels.

Three commenters felt that § 141.360(b)(2) should be amended to clarify that floating electric water lights are not required for towing vessels operating solely on Western Rivers.

The Coast Guard does not agree. The fitting of lights to lifebuoys increases the likelihood that the person in the water will be located and retrieved, irrespective of the operating area. However, under revised § 141.360(c)(2) and (3), the floating electric water light is not required for towing vessels limited to daytime operations.

An individual indicated that the proposed rule did not clearly state the floating electronic water light should not be attached to the lifeline.

As noted in § 141.360(c)(4), the floating electric water light is to be secured around the body of the lifebuoy, which is consistent with language applicable to other inspected vessels. The Coast Guard feels that this language in § 141.360(c)(4) is clear.

One commenter felt that using millimeters in proposed § 141.360(b)(3) was unnecessary and could result in an inspector rejecting a lifeline if he or she determined it is only 908 mm in length instead of the required 910 mm. The commenter suggested that we use meters instead of millimeters.

The Coast Guard does not agree. The millimeter equivalents to the 3 and 6 foot standards in the corresponding paragraph of this final rule, § 141.360(c)(3), are consistent with similar regulations for other inspected vessels. See, for example, 46 CFR 117.70 and 180.70. The more precise metric equivalent leaves less of a gap between it and the English units. The Coast Guard does not see a compelling reason to use a different standard for similar requirements on other types of inspected vessels.

One commenter suggested that the number of alternative lifebuoys be left to the OCMI to decide.

As noted above, we have reduced the number of lifebuoys below what we proposed in the NPRM. We do not believe an appropriate level of safety is met by further reducing that number. Under § 141.225, however, the OCMI may require additional lifebuoys as deemed necessary based on the operating area.

Lastly, an individual asserted that in order to quickly identify lifebuoys as safety equipment, all lifebuoys should be colored orange.

The Coast Guard believes that lifebuoys are readily recognized as lifesaving equipment, regardless of color. However, in § 141.360(b)(5) we require that lifebuoys must be orange on vessels on an oceans or coastwise route, where visibility could be obscured by white caps.

One commenter pointed out that proposed § 141.365 includes procedures in the TSMS for the prompt recovery of a person from the water, and for the training of crewmembers responsible for recovery in effectively implementing such procedures, applies only to towing vessels under a TSMS and not to vessels that elect Coast Guard inspection. This commenter recommends that the rule also address this issue for towing vessel choosing the Coast Guard inspection option.

The Coast Guard does not agree with requiring these written procedures for those vessels choosing the Coast Guard option. Vessels choosing the Coast Guard option will be required to get underway to conduct drills for a Coast Guard inspector and the retrieval of a man-overboard may be required as part of these drills. Therefore, the procedures and training will be examined through practice rather than through audit of the SMS. However, we did find that proposed § 141.365 was redundant with § 138.215 and removed it from the final rule.

We received two submissions from commenters requesting we add a requirement for specific commercially available person-overboard recovering equipment. One commenter said that recovery equipment to receive unconscious personnel from water should be required.

The Coast Guard is not in the position to require carriage of a specific commercial product. Based on these comments, however, we have added text to § 141.200 to allow a towing vessel to carry additional lifesaving equipment in addition to that required under subchapter M and that this excess equipment need not be Coast Guard approved. We do not see a need to require the person-overboard recovering equipment, in addition to the lifesaving equipment required in this rule.

One commenter recommended a public hearing to discuss the lifesaving equipment approval process within the Marine Safety Directorate, and to agree on what changes can encourage innovative lifesaving devices for commercial vessels.

This recommendation is outside of the scope of this rulemaking, as this rule applies only to the carriage of approved lifesaving appliances on towing vessels, and does not address the process by which that equipment is approved. We have made no changes from the proposed rule based on this comment.

We received several comments suggesting edits to the Miscellaneous Lifesaving Requirements table, Table 141.370. We received two comments from maritime companies, suggesting amendments to the table clarifying which vessels require six flares and which require 12. One association suggested that in order to be consistent with other table styles, instead of the three columns for Emergency Position Indicating Radio Beacon (EPIRB) stating "Yes", the columns should just indicate "1".

The Coast Guard agrees that our proposed Table 141.370 is confusing. We have made appropriate revisions to the table and the regulatory text of the first section it references, § 141.375.

One commenter recommended that the table in this section include "Rivers and Canals" as an area of operation.

As we said in response to the same comment regarding Table 141.305, the definition of "rivers" in § 136.110, which applies to the term used throughout subchapter M, includes canals. We have made no changes from the proposed rule based on this comment.

Several commenters suggested that "excepted towing vessels" operating solely on Rivers or Western Rivers be exempt from carrying distress signals. We received several comments, mainly from individuals and maritime companies, who felt that the visual distress signals should not apply to Western Rivers or inland river systems. Another commenter felt that flares and smoke signals required in proposed § 141.375(b) were not needed for vessels operating on rivers one mile wide. A maritime company disagreed with the requirement for single flares on harbor and fleeting tugs.

The Coast Guard does not agree. The carriage, proper stowage, training, and use of visual distress signals influence survivability of the crew in the event of an emergency that would require evacuation. As we noted above, time to rescue is influenced by the ability to detect persons in distress. If there is insufficient evidence that crewmembers are in trouble, it is less likely they will receive the assistance they need.

One commenter felt that phrases such as, "approved under 46 CFR subpart 160.021 or other standard specified by the Coast Guard" is vague and should instead reference approval series found in 46 CFR 199.30.

The Coast Guard agrees and has revised the regulatory text in part 141 to specify the approval series applicable to all lifesaving equipment required to be approved. The Coast Guard believes that specifying the appropriate approval series assists the vessel owners and managing operators in determining whether specific equipment is approved for a particular application.

We received several comments, particularly from maritime companies, suggesting the deletion of § 141.380(c), which requires identification markings on each EPIRB.

The Coast Guard does not agree. When we find an unattended EPIRB, it is important that we know what vessel it came from, so that we can mount a more focused and effective rescue response.

One company requested an exception from the EPIRB requirement for vessels operating within coastal bays or sounds that may occasionally operate at greater than 3 miles from shore.

In § 141.380, we did propose to require EPIRBs on vessels operating upon the Great Lakes beyond 3 nautical miles from shore but not on vessels operating on lakes, bays, and sounds. The Coast Guard acknowledges the conflict between § 141.380 and Table 141.370, and has made the appropriate revisions to the table to exclude vessels on lakes, bays, and sounds from the EPIRB requirement.

One commenter stated that the requirement for EPIRBs does not mention requirements for hydrostatic release.

We note that § 141.380(b) requires that the EPIRB be mounted such that it will float free if the vessel sinks. Hydrostatic release is one of several methods for meeting this requirement. We made no changes from the proposed rule based on this comment.

One commenter suggested that § 141.380(a) be consistent with NTSB Recommendations M–10–1 and suggested that each EPIRB installed after the effective date of these rules should be a type which includes a satellite position in its distress alert.

The Coast Guard recognizes the merit of enhanced locating devices, but the benefit of adding enhanced GPS locating functionality to an EPIRB does not outweigh the costs associated with making it mandatory for all towing vessels, particularly before it is mandatory for other types of inspected vessels. Though the Coast Guard may consider this matter holistically in the future, we have not made changes to the proposed rule based on this comment. However, this does not preclude a vessel operator from optionally carrying such equipment.

We received comments from three maritime companies that felt that because a tug is able to retrieve a barge without boarding, and because boarding a drifting barge is dangerous, the line throwing requirement in § 141.385 is not needed.

The Coast Guard notes that the line-throwing appliance was only proposed to be carried on towing vessels operating on ocean routes, and is not necessarily intended for boarding a drifting barge. The line-throwing appliance can be used to pass a line to another vessel if the towing vessel is incapacitated and needs to be towed.

One association suggested broadening the line throwing apparatus requirement to include towing vessels in coastwise service that operate beyond the boundary line.

The Coast Guard agrees that vessels in coastwise service will be subject to similar conditions, and have expanded this requirement to include them, consistent with other inspected vessels (see 46 CFR 199.170 and 199.610). We have amended § 141.385 accordingly.

L. Fire Protection (Part 142)

The fire protection standards proposed in Part 142 retained most of the fire protection regulations that currently apply to towing vessels and are contained in 46 CFR parts 25 and 27. The public comments received in response to proposed part 142 provided a number of suggestions aimed at improving the clarity of the requirements based on several years of operating experience with the current regulations. We have incorporated many of these suggestions in an effort to make part 142 more user-friendly, and made additional editorial revisions to improve clarity and readability. We also received some comments critical of specific provisions in the NPRM. Most notable are objections to the requirements for flammable liquid storage cabinets on inland towing vessels, the use of portable fire pumps, the requirements for a professional engineer (P.E.) to certify fire detection systems, and any requirements relating to onboard firefighting. Each of these comments is discussed in greater detail in the following item-by-item responses.

In general, the nature of the public comments made it clear to us that the organization of part 142 was confusing and could be greatly improved by placing in subpart B all of the general requirements that are applicable to all towing vessels—such as equipment approvals, fire hazards to be minimized, storage of flammable liquids, portable fire extinguishers, firefighter's outfits, fire axes, and maintenance and training—and placing in subpart C the specific requirements for fire-extinguishing and fire detection systems applicable only to certain vessels. Accordingly, we reorganized part 142 by deleting redundant requirements for fixed fire-extinguishing systems in proposed § 142.235, and moving the requirements for portable fire extinguishers from proposed § 142.305 to § 142.230(d), the requirements for firefighter's outfits from proposed § 142.350 to a new § 142.226, and the requirements for fire axes from proposed § 142.350 to a new § 142.227, but we did not change any requirements, except in response to public comments as discussed in the following paragraphs. Section 142.235 in this final rule now contains requirements for vessels contracted for prior to November 19, 1952.

With respect to proposed § 142.105 on applicability, one commenter requested that we add text to indicate that vessels exempted from 46 CFR part 27—which currently applies to most towing vessels that will become subject to subchapter M requirements—need not comply with part 142. We partially agree with this commenter. In § 142.300, we have established that excepted vessels need not comply with the provisions of subpart C regarding fixed fire-extinguishing equipment; our definition of "excepted vessels" in § 136.110 includes many of the vessels excluded from part 27 applicability by § 27.100(b).

But, we do not agree that these vessels should be exempt from the general fire safety provisions in subparts A and B. These requirements implement minimum standards for portable fire extinguishers and control of combustible materials, which we believe are essential on board all vessels. Accordingly, we did not adopt the broad exemption recommended by the commenter.

We revised § 141.205(a) to include a reference to SOLAS Chapter II–2 as this is where specific fire protection requirements are contained.

With respect to § 142.215, one commenter suggested that the installation of excess fire-fighting and fire detection equipment on a vessel must be designed, constructed, installed and maintained in accordance with recognized industry standards acceptable to the Coast Guard. We agree with this comment and have added a paragraph (c) to this section to address equipment that is installed but not required by this subpart. Because there may be existing vessels affected by this, we have included provisions that allow the local OCMI to accept existing equipment of any design as long as it is determined to be in serviceable condition. Additionally, we have clarified the wording regarding approved equipment in order to standardize this language throughout the subchapter.

Several commenters expressed concern that the proposed requirements in § 142.220 appeared to prohibit the presence of any combustible and flammable liquids in the bilges at any time. They noted that the accumulation of some amounts of combustible and flammable liquids in the bilges is unavoidable during normal operations, and requested changes to this section. We agree that small amounts of such liquids are likely to be present; however, we also want to clearly express our concerns over the accumulation of considerable quantities of liquids that could be a fire hazard. We therefore modified the text of § 142.220(a) to indicate that the bilges should be kept as clear as practical.

Another commenter felt that the proposed requirements in proposed § 142.220(c) (now § 144.415) for the insulation of exhaust pipes and galley cooking equipment exhaust ducts should apply only to new vessels because it would be difficult to retrofit existing vessels, and the risk does not warrant added protection. We do not agree with this commenter, and have not changed the requirement. There have been recent exhaust system fires (discussed in our Safety Alert 05–08, dated September 17, 2008) in which the cause was attributed to the installation of new diesel engines that run at hotter temperatures than previous models. We believe that the potential fire risk is the same on both new and existing vessels. However, to alleviate concerns about installing insulation on the exhaust systems of existing vessels, we have added to § 144.415 two alternate methods of demonstrating compliance. The revised requirement would accept exhaust systems designed to either Standard P–1 of the American Boat and Yacht Council (ABYC) or Standard 302 of the National Fire Protection Association (NFPA) as equivalent forms of protection. These additional means of protection will provide operators of existing vessels a wider range of choices to comply with the rule. As noted above, proposed § 142.220(c) was moved to § 144.415 as this requirement is more closely related to part 144.

We received several comments objecting to requirements in § 142.225 for approved flammable liquids storage cabinets on boats operating on the Western rivers. These commenters appear to have misinterpreted the proposed rule. We proposed that combustible and flammable liquids be stored in a controlled area, either a specific room or a dedicated storage cabinet. An approved storage cabinet is an option and not a required piece of equipment. Related to this, one commenter recommended that we also accept flammable liquid storage cabinets that are Factory Mutual approved. We agree with the commenter that Factory Mutual cabinets provide an equivalent level of safety as those approved to UL 1275, a voluntary consensus standard used in the NPRM and this final rule, and have added a new § 142.225(c)(2) to accept their use. Another commenter felt that securing the cabinets to the vessel should not be required on the Western Rivers, but offered no justification for the comment. We acknowledge that vessels operating on the river system are subject to less significant wind and wave motions than are experienced by ocean-going vessels, but do not agree with the commenter that flammable liquid storage cabinets should be unsecured. Any sudden acceleration or movement of the vessel could dislodge the cabinet, causing a flammable liquid spill potentially leading to a fire. We have not made any changes as a result of this comment.

Finally, we received one comment suggesting that § 142.225 should contain information on the storage of hazardous material in ships' stores. We believe these materials are adequately covered by regulations in 46 CFR part 147, which apply to towing and other vessels subject to inspection under 46 U.S.C. 3301, and need not be repeated here.

In § 142.226 (proposed § 142.345), and throughout this part, we changed all references from fireman to firefighter. We also removed the reference to the Mine Safety and Health Administration because this agency no longer approves self-contained breathing apparatus for normal use. A variety of comments were submitted regarding the proposed requirements for the carriage of firefighter's outfits covered by proposed § 142.345 (now § 142.226 as noted above). One commenter recommended that the proposed standards should be enhanced by listing the specific equipment required for each firefighter's outfit. Others recommended that the requirements for the carriage of firefighter's outfits should be deleted in their entirety, since in their opinion it is too dangerous for crewmembers to enter a burning engine room, and would be better advised to abandon ship in the event of a serious fire.

We have not removed the requirements for firefighter's outfits. We proposed firefighter's outfits for a limited class of vessels. Only vessels of 79 feet or more, operating on ocean or coastwise routes, that do not have a fixed fire suppression system in the engine room are required to carry firefighter's outfits. These vessels are primarily existing vessels that were contracted for prior to August 27, 2003. The Coast Guard believes that these vessels, which operate on the open ocean should have enhanced fire-fighting equipment because timely outside assistance is unlikely, and in the event of an engine room fire the crew must be able to provide onboard response. Vessel operators that believe that fire-fighting poses an unacceptable risk to the crew have the option of installing a fixed fire-extinguishing system in the engine room.

One commenter requested changes to § 142.230 that would allow two size B–III semi-portable fire extinguishers on smaller vessels to substitute for the required B–V extinguisher, which in their opinion, is difficult to handle due to its size. We do not agree with this comment. As noted in the 2004 Fire-Suppression Systems and Voyage Planning for Towing Vessels final rule (69 FR 34064, June 18, 2004), the severity of an engine-room fire is not related to the length of the vessel, but to the fire hazard present in the engine room. The use of marine diesel fuel oil poses a sufficient hazard to warrant the higher fire-suppression capability of a size B–V extinguisher. However, we are concerned that some operators may be installing semi-portable extinguishers that are fitted with wheels. These types of extinguishers are intended for use in shore-side applications and, if used on board vessels, they need to be secured to prevent possible injury to the crew. We have consequently added a supplemental provision to § 142.230(e) that requires that any extinguishers fitted with wheels must be welded or otherwise secured to the vessel.

Another commenter noted that because the NPRM splits discussion of the fire extinguisher requirements between § 142.230 and proposed § 142.305, it was difficult to determine what is actually required; the commenter requested a single chart with all of the fire extinguisher requirements in one location. We agree with this commenter and have relocated all of the portable hand-held fire extinguisher requirements to § 142.230(d) and deleted proposed § 142.305. The proposed text in § 142.230(d) relating to extinguisher labeling and nameplates has also been deleted, since this is an approval requirement covered by 46 CFR 162.028–3(f) and 162.028–4, and is not appropriate for inclusion here. Requirements for semi-portable B–V fire extinguishers remain in § 142.315.

As previously noted in the general discussion of Part 142, we have deleted the content of proposed § 142.235 because it contained a superfluous requirement that fixed fire-extinguishing systems must be approved by the Commandant, which is already required by § 142.215(a). We also deleted the requirement that carbon dioxide systems must be designed in accordance with 46 CFR part 76, subpart 76.15, because this is covered in the definition of "fixed fire-extinguishing system" in § 136.110.

One commenter suggested that all new installations of fixed fire-extinguishing systems should be required to undergo plan approval by the Coast Guard prior to installation. We do not agree with this comment and have not changed the proposed rule to require plan approval by the Coast Guard. We believe requirements in § 144.135 are sufficient. That section requires verification of compliance with construction and design standards before a new installation that is not a replacement in kind may be installed. We changed the inspection and testing criteria in Table 142.240 to harmonize this regulation with the Carbon Dioxide Fire Suppression Systems on Commercial Vessels final rule (77 FR 33860, June 7, 2012), a separate rule related to fire suppression systems on commercial vessels that was published after we published our NPRM. We made reference to that ongoing rulemaking and its potential impact on this rule in our NPRM. See 76 FR 49985, Aug. 11, 2011. The Carbon Dioxide Fire Suppression rule revised the vessel regulations to require lock-out valves and odorizing units on all new carbon dioxide extinguishing systems installed or materially altered after July 9, 2013. That rulemaking also changed each of the vessel subchapters to allow the use of clean agent fire-extinguishing systems as an alternative to carbon dioxide systems. Because of this, it was necessary to change the inspection and testing requirements for fire-extinguishing systems in Table 142.240 to include criteria for the inspection and testing of the new clean agents. We have also slightly modified the definition of "fixed fire-extinguishing system" in § 136.110 to comport with the revised definition in new 46 CFR 27.101.

Additionally, we changed "maintain" to "test and inspect" in the water mist "test" field in Table 142.240, to more accurately reflect the intent of this requirement.

Several comments related to the proposed regulatory text in § 142.240 revealed that this section was confusing and did not clearly convey our intended requirements. During our further review of proposed § 142.240 we noted that the NPRM used inconsistent wording and tended to use the terms "examination," "test," and "maintenance" interchangeably, which contributed to the confusion. We have, therefore, revised the text and format of this section to improve its clarity and consistency. All testing and inspection requirements are stated in paragraph (a), all maintenance requirements are in paragraph (b), and requirements for recordkeeping are in paragraph (c). We have also replaced the word "examination" with "inspection" to be consistent with other Coast Guard regulations.

We received numerous comments requesting that the proposed text of this section be modified to require fire suppression and fire detection systems be inspected or tested annually or in accordance with the TSMS applicable to the vessel. We agree with this view and have changed § 142.240(a) to require inspection or testing at least every 12 months—as we proposed in § 142.240(c)—or more frequently, if required by the vessel's TSMS.

Several comments also proposed that the TSMS should be the exclusive form of recordkeeping for test and inspection results. We do not agree with this comment. For flexibility, we have proposed that the records may be kept in accordance with an applicable TSMS, the TVR, or the vessel's logbook, whichever applies. We have also added new provisions in § 142.240(c)(2) to accept service tags attached to portable and semi-portable extinguishers by a qualified servicing organization as an acceptable record that demonstrates the required tests and inspections have been completed.

One commenter requested that we replace the phrase "dampers" in proposed § 142.240(c), now § 142.240(a), with "fire dampers." It was not our intent to require the testing of fusible-link fire dampers. The proposed requirement was directed at pressure-operated dampers installed in engine room ventilation ducts. These dampers are automatically operated by the engine room fire-extinguishing system, and must close prior to system discharge to prevent the leakage and dilution of the fire-extinguishing agent. To clarify what dampers we intended to be tested, we have changed "dampers" to "fixed fire-extinguishing system pressure-operated dampers." We have also added this phrase to § 142.240(a)(5) to clarify that these dampers must be tested as part of the fire-extinguishing system inspection procedures.

One commenter requested a modification to the carbon dioxide cylinder tests required by Table 142.240 that would remove the requirement to weigh the cylinders, and in its place permit the use of liquid level indicators. We do not agree with this requested modification. The Coast Guard has historically required that carbon dioxide cylinders must be weighed to determine the amount of extinguishing agent (see, *e.g.*, 46 CFR 91.25–20(a)(2) and related table), because weighing is the only reliable method to check the quantity of carbon dioxide in the cylinders that the Coast Guard recognizes. Liquid level measuring systems use various types of sensing elements that show the location of the liquid/gas interface within the cylinder. With that knowledge, a technician is able to calculate the quantity of agent. We have no objection to the use of liquid level indicators for checking the quantity of halocarbon clean agents, because a liquid/gas interface can be easily determined. This is not the case with carbon dioxide, however, which has a critical temperature of 87.8 degrees Fahrenheit. Below the critical temperature, carbon dioxide in a closed container may be part liquid and part gas. Above the critical temperature it is entirely gas, making the use of such measuring devices impractical.

One commenter requested that we change § 142.245 to require all records of training and drills to be kept in the TVR. We do not agree and have made no changes from the proposed rule based on this comment. For flexibility, we have permitted several acceptable recordkeeping methods, in accordance with part 140 of this subchapter.

One commenter questioned the intended extent of the fire detection and alarm system testing during drills required by proposed § 142.245(c)(3). As proposed, the commenter noted, each drill could be understood to require a complete test of the system. This is not our intent. We anticipate that during drills, only the test switch or a single detector needs to be activated to familiarize the crew with the system's operation, and have changed the text of § 142.245(c)(3) to require that only one device needs to be tested.

One commenter requested that the proposed requirements in this section for training crews to respond to fires should be removed from the rule, as the limited scope of the training would not afford crew members with the necessary skills and knowledge to safely engage in fire-fighting activities. The commenter anticipated that this may result in a false sense of security, leading to injuries for crewmembers attempting to fight engine room fires. Further supporting this argument, it was suggested that the typical practice on inland towing vessels in response to a fire is to attempt "first-aid" firefighting using portable extinguishers or fire hoses. If this fails to contain the fire, the crew would abandon ship to the tow or the riverbank.

Another commenter requested that we strengthen the training requirements by mandating that all licensed officers, apprentice mates, steersmen, and engineers complete formal fire-fighting training courses.

We considered comments on these same issues in a previous rulemaking, the Fire-Suppression Systems and Voyage Planning for Towing Vessels interim rule (68 FR 22607, April 29, 2003), and believed at that time that the level of training proposed in our Inspection of Towing Vessels NPRM would provide crew members with adequate knowledge of the procedures and equipment on board their vessels needed to respond to fires; we have not changed our opinion on this issue based on these comments on § 142.245. In support of our previous rulemaking, TSAC had performed an independent analysis of our casualty data, which showed that over 80 percent of the reported fires on inland vessels had been extinguished by the crewmembers with only seven reported injuries. (See USCG–2000–6931–0046, available on *www.regulations.gov*). Further review of the Coast Guard casualty reports on the vessels where injuries were reported revealed that most of the seven injuries were the result of conditions in the engine room (*e.g.*, burns from the fire outbreak) and were not attributable to fire-fighting efforts.

As previously discussed, in order to make this regulation more user-friendly, we have made various editorial changes here such as moving the portable fire extinguisher requirements previously proposed in § 142.305 to § 142.230(d). We also revised the section heading of § 142.315 to "Additional fire-extinguishing equipment requirements," and amended that entire section to make clear which provisions did not apply to certain towing vessels. In order to account for those vessels operating within 3 nautical miles from shore on the Great Lakes, we revised paragraph (a)(1) of § 142.315. These revisions did not change any substantive requirements proposed in the NPRM.

We received numerous comments requesting that we modify proposed § 142.325(c) to clarify that sufficient hydrants and hoses must be provided to allow "a stream of water from" a single length of hose to reach any part of the machinery space. We concur with these comments and have changed the text accordingly. Associated with this were several comments that the requirement for a single length of hose should be deleted. We do not concur with this, because the single, 15-meter-length-of-hose requirement ensures that a sufficient number of fire hydrants with attached hoses are installed in or close to the engine room. If the fire-fighting water could be provided by multiple sections of hose linked together, (*i.e.*, a segmented hose of unlimited length) a single remote hydrant might satisfy the rule, but the length of hose required would either be too cumbersome to handle in an emergency, not provide the necessary amount of firefighting water due to friction loss, or both.

One commenter urged us to add a new § 142.325(g) requiring a minimum fuel supply stowed onboard to enable 4 hours of operation of the portable fire pump. We do not agree with this suggestion. Paragraph (b) of 46 CFR 27.211 prohibits the carriage of portable fuel tanks and related hardware except when used for outboard engines or when permanently attached to portable equipment such as fire pumps. Most commercially available portable fire pumps have a fuel tank capable of operating the pump for at least 1 hour. The carriage of supplemental fuel supplies to allow 4 hours of operation would conflict with the provisions of 46 CFR 27.211(b).

Another commenter requested that we remove the requirement for a "self-priming" portable fire pump and require, as an alternative, that a minimum time period be specified during which the crew must be able to demonstrate that their portable pump can be deployed. We do not agree with this comment and have not removed the requirement for self-priming pumps, as non-self-priming pumps are extremely difficult to successfully operate under emergency conditions.

A third commenter noted that in his experience, many crews have difficulties getting the self-priming feature of portable fire pumps to function. We believe this commenter raises a valid point, and have added a new paragraph (c)(5) to § 142.245 to require regular training on the self-priming feature during fire drills to ensure crew familiarity its operation, on vessels equipped with portable pumps.

Another commenter requested that we not accept the use of portable pumps at all, as they are not comparable to fixed fire main systems, and the amount of time it takes to assemble and deploy the pump in darkness or rough weather could compromise mariner safety. We do not concur with this comment because portable pumps were previously allowed for uninspected towing vessels and we do not have data supporting the removal of the option of using cost-effective portable fire pumps. Operators with vessels on routes or in services where the ability to deploy and operate portable pumps could be difficult may choose to install a fixed fire main system as an option.

One commenter recommended that we specify the type of fire hoses required by this section, and urged that we adopt UL 19 as the required standard. We believe that the existing requirement for lined commercial fire hose provides suitable fire-fighting equipment for this purpose. Firehose meeting UL 19 is constructed to a higher standard that would impose unnecessary costs on the industry.

One commenter suggested that § 142.325 require a dedicated sea-chest for the installed fire main. We do not agree with this comment, because a dedicated sea-chest would likely be used only during drills and in emergencies. If the fire main system is connected to a sea-chest that is regularly used for shipboard services, there is a greater chance that it will be clear of debris or fouling when needed.

During our review of the public comments on § 142.330, we noted that the proposed introductory paragraph of this section was confusing in regard to the fire detection system requirements for towing vessels constructed on or after January 18, 2000. We have clarified and improved the structure of this section by addressing vessels whose construction was contracted for prior to January 18, 2000, separately in paragraph § 142.330(a)(8).

One commenter requested clarification as to whether the audible and visual alarms at the operating station required by proposed

§ 142.330(c) must be integral to the fire alarm control panel. The Coast Guard's response is that the operating station must have a fire detection control panel installed within the space. However, in the years since the Fire-Suppression Systems and Voyage Planning for Towing Vessels final rule was published (69 FR 34064, June 18, 2004) and incorporated into existing 46 CFR subchapter C regulations, we have become aware that there may be cases where this is a problem on towing vessels with more than one operating station because the fire detection system control panel is not installed at each operating station. We did not intend to impose an undue economic burden on vessels of this design type by requiring fire detection control panels at each operating station. Rather, one operating station must be outfitted with the fire detection control panel while any others could be outfitted with either fire detection control panels or a remote indicator with audible and visual alarms. We amended the regulatory text of this section to reflect this intent (see new § 142.330(a)(3)).

Another commenter requested that we remove reference to a circuit-fault detector test-switch in § 142.330(a)(4)(v) because currently available fire alarm control panels use internal supervision instead of a test switch to verify circuit integrity. We agree with this comment and have changed this paragraph to accept control panels with internal circuit supervision as equivalent to those having a test switch. We have elected to retain a reference to panels with a test switch to allow flexibility in meeting this provision.

Various commenters suggested that proposed § 142.330(g), which we redesignated as § 142.330(a)(7) in the final rule, should be amended to allow certification of fire detection systems by the National Institute for Certification in Engineering Technologies (NICET) Level IV technicians in addition to registered P.E.s. We concur with this view and have changed the text of § 142.330(a)(7) accordingly. Level IV technicians are required to have at least 10 years' experience in fire alarm installation and testing and must pass a comprehensive written exam to demonstrate their knowledge. Other commenters requested that we add a qualifying statement to the requirement for a P.E., to ensure that the engineer is qualified to review and certify fire detection systems. We agree and have changed § 142.330(a)(7) to require that any P.E.s or authorized classification society reviewing the system have experience in fire detection system design. It is important to note that all required fire detection systems must be certified and inspected by a P.E., a NICET Level IV Technician, or an authorized classification society including those on vessels that elect or are subject to the Coast Guard traditional inspection scheme under § 137.200. When the Coast Guard inspects the vessel, it will look for evidence that the vessel owner or managing operator has had all required fire detection systems on the vessel certified and inspected by a P.E., a NICET Level IV Technician, or an authorized classification society. We also edited § 142.330(a)(7) to clearly require the system and its installation to be both certified and inspected.

One commenter requested clarification of proposed § 142.330(g), specifically, whether the certifying engineer or technician must review only the detection system equipment and layout drawings, or whether it is necessary to inspect the installation of the fire detection system on board the vessel. We clarified the language in § 142.330, and specify that the fire detection system must be both: Certified by a P.E., NICET technician, or an authorized classification society surveyor to comply with paragraphs (a)(1) through (7) of § 142.330; and inspected by a Coast Guard marine inspector or a TPO surveyor, depending upon which inspection regime applies to the vessel, to comply with § 142.330(a)(2). This last reference requires the system to be installed, tested and maintained in accordance with the manufacturer's design manual.

We have substituted the term independent testing laboratory in § 142.330(a)(1) and (8) with Nationally Recognized Testing Laboratory (NRTL) as defined in 29 CFR 1910.7. The proposed term independent testing laboratory is ambiguous and will be replaced with NRTL throughout title 46 CFR upon the finalization of a concurrent regulatory project (see the Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment notice of proposed rulemaking (79 FR 2254, January 13, 2014)).

Please note that we have redesignated § 142.335, Smoke alarms in berthing spaces, and § 142.340, Heat detector in galley as § 142.330(b) and (c), respectively, in the final rule. Multiple commenters urged us to remove from proposed § 142.335 (now § 142.330(b)) any requirements for battery operated smoke detectors in berthing spaces, and instead require smoke detectors that are part of an installed fixed fire-detection system. We do not concur with this suggestion. Battery-operated smoke detectors are not required, but detectors that meet UL 217 may be used as an alternative to satisfy the requirements in new § 142.330(b). We have retained this option in the final rule because it offers a low cost alternative to installing a fixed detection system in these areas.

A commenter requested changing proposed § 142.340 regarding a heat detector in the galley to require only heat detectors that comply with UL 521. We have not specified a specific performance standard for the required heat detectors; however, we agree with the commenter that only restorable heat sensing type detectors may be used (*i.e.*, detectors that automatically reset to operating condition when the heat source is removed), and have changed the requirements in redesignated § 142.330(c) accordingly.

In the NPRM we discussed comments submitted in response to seven questions we posed in a December 30, 2004, Inspection of Towing Vessels notice. In response to that portion of the NPRM, one of these commenters recommended applying grandfathering to structural fire-protection requirements. The commenter also felt that existing vessels should be treated differently from newly constructed vessels because of the likelihood that fire standards will make it difficult to retrofit existing vessels. We have made no changes to the final rule in response to this comment. The fire protection standards proposed in this part retain most of the fire protection regulations that currently apply to existing towing vessels and are contained in Title 46 CFR parts 25 and 27. Only three new requirements have been added. Section 142.227 requires all vessels to have a fire axe, § 142.330(b) (proposed § 142.335) requires smoke detectors in berthing areas, and § 142.226 (proposed § 142.345) requires firefighter's outfits on certain ocean-going vessels. Battery-operated smoke detectors will be permitted, and the addition of fire axes and firefighter's outfits does not require any modifications to the vessel; therefore, we do not agree that either requirement would be difficult to implement onboard existing vessels.

M. Machinery and Electrical (Part 143)

In this final rule, we made substantive changes in response to specific comments on the NPRM, and we also made significant organizational changes. Because of the organizational changes, subpart headings and section numbers in this part no longer correspond to those used in the NPRM. Much of the content of proposed part 143 has been removed or reordered, and several provisions have been changed to apply to new vessels only. The requirements of proposed subpart C, deferred requirements for existing vessels, and proposed subpart D, for oil and hazardous material in bulk, have been divided among the other subparts. This derivation table lists part 143 section numbers in this final rule and the corresponding part 143 section from the NPRM:

TABLE 1—DERIVATION OF SECTIONS OF PART 143 FROM THE NPRM

Final rule section No.	NPRM section No.(s)
143.100	143.110.
143.105	143.105.
143.115	143.115.
143.200	143.200, 143.325, 143.330, 143.335.
143.205	143.220.
143.210	143.110, 143.215.
143.215	143.210.
143.220	143.235.
143.225	143.240.
143.230	143.245.
143.235	143.250.
143.240	143.330.
143.245	143.260.
143.250	143.270.
143.255	143.275.
143.260	143.280.
143.265	143.285.
143.270	143.290.
143.275	143.295.
143.300	143.320, 143.520, 143.525.
143.400	143.300.
143.410	143.310.
143.415	143.315.
143.450	143.210, 143.325, 143.515, 143.520.
143.460	143.330.
143.500	143.500, 143.505.
143.505	143.505.
143.510	143.510.
143.515	143.515.
143.520	143.520.
143.540	143.535.
143.545	143.540.
143.550	143.545.
143.555	143.340.
143.560	143.345.
143.565	143.350.
143.570	143.355.
143.575	143.360.
143.580	143.550.
143.585	143.405.
143.590	143.410.
143.595	143.420.
143.600	143.430.
143.605	143.435.

In several provisions in the NPRM, we offered two different options for complying with design or operational standards in certain areas. These sections were divided up into "functional requirements" and "prescriptive options" for complying with the functional requirements. The prescriptive options represented one way to comply with the functional requirements, but an owner or managing operator could choose another way to comply so long as the alternative method was approved by the OCMI or an approved third party. On further consideration, we have consolidated the functional requirements with other language about when and how exceptions from the baseline standard may be granted (see § 143.210).

Changes to Subpart A, "General"

The applicability of the subparts within this part has changed. The specific changes are discussed elsewhere in this preamble, but we have revised the discussion of applicability in subpart A to provide an overview of the entire part for readers. Most notably, subpart A now specifies that existing vessels (which includes those vessels already under construction that do not meet our definition of "new towing vessel"), have 2 years to comply with the rule; for certain listed provisions, the delay is longer. Additionally, because the structure of part 143 has changed, new vessels must comply with subparts B and C of part 143 except as noted in specific sections in subpart C instead of the proposed subpart E. Under our "new towing vessel" definition, no vessel would be subject to new vessel requirements until at least July 20, 2017.

Because of the additional discussion of the applicability of each subpart and the changes to the discussion of functional requirements with prescriptive options for compliance, we removed proposed § 143.110. The content specific to OCMI or third-party acceptance of alternative methods is relocated to § 143.210 and consolidated. However, we will address here the comments received on proposed § 143.110. One commenter suggested adding the word "company" to the entities named in § 143.110(c) on alternatives to the prescriptive option. The Coast Guard declines to make this change, because an "owner or managing operator" may be a company. Another commenter suggested replacing OCMI or third-party acceptance with a TSMS accepted by the third party. This change would remove the option of OCMI acceptance and would not be appropriate for vessels not covered by a TSMS, so the Coast Guard declines to make the change.

As previously discussed in this preamble, we relocated the definition of "independent" to part 143 in response to a comment pointing out that the definition was specific to vessel arrangements described in this part.

Several commenters noted that that the phrase "replacement in kind" should not be construed too narrowly, so as to avoid subjecting existing towing vessels to unnecessary additional requirements. One commenter suggested that where a piece of equipment such as a generator is replaced with another that has the same function and similar characteristics but is not the exact same model, such replacement should be considered "replacement in kind." Another commenter suggested that proposed § 143.220 (now incorporated into § 143.205) would prevent vessels from upgrading to more efficient equipment.

We added a definition of "replacement in kind" to § 136.110 in response to numerous comments requesting clarification of this term, which is used in parts 143 and 144. When equipment needs to be replaced, it may be replaced by the same or similar equipment, or it may be upgraded. It is certainly acceptable to upgrade, but an upgrade is not considered a replacement in kind because the maintenance and operation of the new equipment may require operator training, new maintenance schedules, OCMI approval of equipment arrangement, and an update to the vessel's TSMS.

Finally, the Coast Guard removed the list of material incorporated by reference specifically for part 143 (proposed § 143.120) and moved that content to a consolidated list for the entire subchapter at § 136.112. The Coast Guard received one comment on the incorporation of standards by reference in part 143; the comment appeared to indicate that new incorporations are not necessary because there are existing, currently applicable standards elsewhere in title 46. The standards incorporated in part 143 are necessary because towing vessels represent a unique class of vessel design, and other standards incorporated in various CFR sections are not currently applicable to towing vessels. The engineering standards incorporated in subchapters F, J, and Q, for instance, are generally applicable to much larger ships with different risk profiles, such as passenger ships or large tank vessels.

Changes to Subpart B, "Requirements for All Towing Vessels"

The organization of subpart B remains largely the same as in the NPRM, although the section numbers have changed. We removed proposed § 143.230, "Guards for exposed hazards," as it was duplicative of proposed § 144.345. For more on this, see discussion of changes to part 144 below. We also added two sections from proposed subpart C—pilothouse alerter systems and towing machinery—which have delayed application dates for existing vessels. An existing vessel must comply not later than 5 years after the issuance of the first COI for the vessel. This delayed compliance date is reflected in § 143.200(c) and is the same length of time as was proposed in the NPRM at proposed § 143.320. The details of these requirements, and other changes to proposed subpart C, are discussed later in this preamble.

General

We redesignated proposed § 143.220 as § 143.205. The Coast Guard received a suggestion that we insert the phrase "in accordance with their responsibilities" in proposed § 143.220(b). The Coast Guard agrees with the general approach and has revised the paragraph to clarify that crewmembers must demonstrate ability to operate the machinery and electrical systems for which they are responsible.

Another commenter suggested changing the requirements in proposed § 143.220(c)(3) to apply to all control stations (operating stations) instead of just the primary one. The Coast Guard agrees and has removed the word "primary" from this requirement. The Coast Guard understands that certain vessels have more than one operating station; in such cases, each operating station would need to comply with revised and redesignated § 143.205(c)(3).

One commenter suggested that the Coast Guard insert the phrase "with respect to the installation in question" in the sentence in proposed § 143.220(d) that requires installations to comply with subpart C for new vessels if the installation is made after this rule becomes effective and is not a replacement in kind on an existing towing vessel. The Coast Guard declines to make that change because the original language was unambiguous and the addition unnecessary.

Another commenter asked the Coast Guard to change proposed § 143.220 to "clarify that replacements mandated by regulation will not trigger the referenced follow-on regulations . . . ." The Coast Guard disagrees. If equipment requires replacement and the owner or managing operator chooses not to make a replacement in kind, it is considered an upgrade and subpart C may apply. Depending on the significance of the replacement (whole system versus one particular piece), newer standards may be applicable. Applying subpart C to replacement equipment will not result in the same cost as applying subpart C to existing equipment, and is appropriate because the maintenance and operation of the new equipment may differ.

Alternate Design

We combined proposed § 143.215 on alternate design considerations with the functional requirements provisions of proposed § 143.110 that called for OCMI or third-party acceptance; these are now located in § 143.210, and have been further condensed to refer to similar provisions in § 136.115. As noted earlier in this preamble, these changes do not alter the availability of approval for alternate designs.

The Coast Guard received several comments requesting that we add "company" after "owner" in proposed § 143.215. The Coast Guard partially agrees. In § 143.210(a), we inserted "or managing operator" after "owner" to be consistent with other sections where we list both. The definition of "managing operator" in § 136.110 includes organizations, and if a company owns the vessel, it would be covered by the definition of "owner."

TSMS

We removed proposed § 143.205, as it was duplicative of part 138. With respect to the content of that proposed section, one commenter had suggested the Coast Guard include "guidelines" in paragraph (a), along with policies and procedures to ensure compliance. The Coast Guard declines to make such a change in the provisions discussing TSMSs, because the purpose of the TSMS is to help ensure compliance with all parts of this subchapter, and the inclusion of guidelines is not necessary to that minimum standard. Nothing prohibits the inclusion of guidelines in individual TSMSs, however.

Existing Vessels Built to Class

We redesignated proposed § 143.210 as § 143.215. Proposed § 143.210 had provided that vessels classed by the American Bureau of Shipping (ABS), or built to ABS rules, would be considered in compliance with part 143 if they met certain additional requirements. However, we determined that the requirements for existing and new vessels need to be further distinguished.

This final rule creates flexibility for existing vessels: Existing towing vessels currently classed by any recognized classification society, or determined compliant with any recognized classification society's appropriate rules, are equivalent to nearly all of the requirements of subpart B. We have reduced the list of additional requirements originally proposed in § 143.210(b), so that existing vessels that are classed or built to class rules only need to meet the pilothouse alerter requirement (by the delayed effective date, 5 years after the issuance of the first COI for the vessel) and readiness and testing requirements. These fundamental safety provisions replace the longer list that we had proposed. In particular, proposed paragraph (b)(2) on potable water was removed because, as a number of commenters noted, proposed § 143.225 was "reserved" and listed no requirements. The Coast Guard agrees with the suggestion to remove this reference to potable water requirements; we note that Food and Drug Administration requirements in 21 CFR 1250.82 already apply to potable water systems for most towing vessels engaged in interstate commerce. In addition, in § 140.510(a)(14) an owner or managing operator must identify and mitigate health and safety hazards related to the towing vessel's potable water supply.

Also, with regard to proposed § 143.210(a), the Coast Guard received several comments suggesting we change the phrase "mechanical standards" to "machinery standards." The Coast Guard agrees that "machinery standards" is the industry accepted term, and amended the section accordingly. In what is now paragraph (b), the Coast Guard clarified that the OCMI or a third party would deem the vessel to be in compliance.

As is discussed later in this preamble, new towing vessels meeting ABS rules in accordance with § 143.515, or classed by ABS, are considered to be in compliance with part 143 except for the pilothouse alerter and readiness and testing sections that are described below. New towing vessels classed by other recognized classification societies may also be compliant with part 143 if approved by the Coast Guard. This final rule offers more flexibility than the proposed rule, in that it provides for Coast Guard approval of other class standards, but does not automatically accept all classed vessels as compliant with part 143. In light of the wide range of possible class standards in the future, we believe this is the correct balance between safety and feasibility.

Machinery Space Fire Prevention

We redesignated proposed § 143.235 as § 143.220. One commenter suggested the Coast Guard change "flammable liquid" to "flammable or combustible liquid" in proposed paragraphs (a) and (c), to cover diesel fuel. The Coast Guard agrees that most grades of diesel fuel are considered "combustible liquids" as opposed to more volatile "flammable liquids" such as gasoline, and amended the section accordingly to indicate the intent of preventing fires. We also refer to 46 CFR subpart 30.10 for definitions of those terms. Similarly, one commenter suggested we add "and other flammable liquids" to the restriction on oil in proposed paragraph (b). The Coast Guard agrees with the underlying concern, but has removed proposed paragraph (b) because it was duplicative of the fire hazards provision in part 142.

With respect to proposed § 143.235(c), several commenters said that the temperature threshold required, 65.5 °C (150 °F), is too low to be practical. The Coast Guard agrees that the temperature specified in the NPRM was impractical, and amended what is now § 143.220(b) to adopt the SOLAS requirements for insulation of hot surfaces: 220 °C (428 °F) as was suggested by several commenters. SOLAS is an established, internationally recognized set of rules developed and ratified by maritime nations worldwide, and the Coast Guard determined that this was the most appropriate reference.

With respect to proposed § 143.235(d), one commenter suggested the Coast Guard change "materials" to "products." The Coast Guard agrees that the suggested change is necessary to achieve uniformity between parts 142 and 143, and amended § 143.220(c) accordingly. In the same section, one commenter suggested that the Coast Guard include the amounts of flammable and combustible materials that can be safely stored in machinery spaces under this section. The Coast Guard declines to do so because, under the original proposed language, the limits would be determined by the size of the designated areas defined in § 142.225 or the size of the flammable storage cabinet that satisfies UL 1275. In addition, because available storage areas will be limited by prohibitions on ignition sources in those areas, we believe that operators will carry only the amounts of products necessary for the vessel mission.

The Coast Guard received several comments recommending adding the language from proposed § 144.360(c) to proposed § 143.235, because it pertains to machinery space fire prevention. The Coast Guard declines to add the language to part 143 because the provisions of § 144.605 address this topic for all towing vessels.

Control and Monitoring Requirements

We redesignated proposed § 143.240 as § 143.225. The Coast Guard received several comments requesting that we change "thrust" to "RPMs" in proposed paragraph (a).

The Coast Guard does not agree with these comments because the use of the word "thrust" is intended to cover other propulsion systems in use today, including varying propulsion and steering control designs, as well as indicators. An example would be a shaft tachometer as an acceptable means of monitoring the vessel's propulsion thrust.

The Coast Guard received several comments asking if the position of the rudder joystick is sufficient to meet the requirements of proposed paragraph (b). The position of the rudder joystick does not provide a positive position of the rudder and is not acceptable. The rudder joystick simply provides an indication of the commanded position of the rudder.

Alarms and Monitoring

We redesignated proposed § 143.245 as § 143.230. The Coast Guard received several comments suggesting that the panel in the wheelhouse needs only to alarm and should not be required to identify the piece of equipment that has tripped the alarm. The Coast Guard agrees that specifying the exact piece of equipment that is in an alarm condition is not necessary in the wheelhouse. Rather, a summary alarm in the wheelhouse is considered sufficient. We amended § 143.230 accordingly. The Coast Guard also received comments concerning the intent of requiring alarms to function when primary power is lost. We agree that it is impractical that alarms on existing vessels have a backup source of power in addition to the primary power supply, because the primary concern on a loss of main electrical power is restoring the main power source.

The Coast Guard received several comments requesting whether certain alarms should signal high or low levels; the Coast Guard agrees that clarification is needed, and amended the section to specify which alarm settings are based on high or low conditions. Several commenters suggested that the requirement for a "main engine fuel oil pressure" alarm should be removed. One commenter indicated that requiring fuel oil pressure alarms was unnecessarily rigorous and would have a disproportionate effect on small businesses. We agree that a wide range of diesel engine fuel pressures may be acceptable depending on the manufacturer, and that fuel oil pressure is not normally considered a mandatory parameter to be monitored; these levels may be checked each watch. We therefore removed proposed § 143.245(a)(3) and (6) when drafting the final version of § 143.230.

One commenter requested a high level alarm requirement on day tanks, stating that a number of spills have occurred as the result of day tanks being overfilled. The Coast Guard agrees that a high level alarm could be beneficial. However, we do not have spill data to justify such a requirement and there are other acceptable means to ensure the day tank is not overfilled (for example, routing the overfill line to a storage tank, physically observing the level of the tank during filling operations, monitoring quantity of fuel transferred so it does not exceed available capacity). In the future, we may propose requiring this alarm if spill data suggests overfilling of the day tank could have been avoided by such an alarm.

The Coast Guard also received several comments stating that proposed § 143.245(a)(9) (now designated § 143.230(a)(6)) addressing low fuel level alarms repeats proposed § 143.275(d) and that one of the two sections should be removed. The Coast Guard agrees, and removed proposed § 143.275(d).

One commenter suggested removing the requirement for hydraulic level alarms.

The Coast Guard disagrees. There is a need to monitor the hydraulic fluid in the steering hydraulic tank in the event of leaks or pipe/hose rupture, because it is essential for maneuvering.

With respect to proposed § 143.245(b)(3), the Coast Guard received several comments in favor of a self-monitoring alarm system.

The Coast Guard agrees that a self-monitoring alarm system is a practical alternative to manual testing of the alarm system, and amended § 143.230(b)(2) accordingly.

The Coast Guard received several comments suggesting deletion of the requirement at proposed § 143.245(c) that gauges be visible at the operating station. The Coast Guard agrees that gauges are not required at the operating station, provided that there are alarms or a summary of alarms at each operating station. We amended this section for clarification.

One commenter suggested that several provisions of the NPRM, including gauges for engines at proposed § 143.245(c), should not be required because they are not required of passenger vessels in subchapter T.

The Coast Guard disagrees with the suggestion that that no gauges should be provided, although we agree that subchapter T vessels and subchapter M vessels could have similar systems. The gauges required by proposed § 143.245(c) are considered minimum requirements for monitoring engine performance. However, in the final rule, the number of gauges required has been reduced to only those considered essential to engine monitoring, and which normally are provided by the manufacturer with all engine installations regardless of the vessel type.

With respect to paragraphs (c)(1) and (3) one commenter suggested that the Coast Guard add the engine RPMs to these sections. The Coast Guard agrees that the main engine(s) and auxiliary generator engines should be equipped with RPM indicators, and amended the sections accordingly.

We deleted proposed paragraph (d) because summary alarms are already allowed under revised § 143.230(b)(1), so there is no need for a separate section allowing this on excepted vessels. With respect to proposed paragraph (d) one commenter suggested that the Coast Guard add "crewmembers responding to the alarm(s)." The Coast Guard agrees with the comment in that the proposed text could have been more specific regarding communications between crewmembers. However, proposed paragraph (d) was applicable only to excepted vessels, and given the traditional size and service of excepted vessels, we ultimately determined that a separate paragraph was not necessary.

General Alarms

We redesignated proposed § 143.250 as § 143.235. One commenter suggested that the Coast Guard clarify the applicability of this section. That commenter also recommended requiring the public address system on towing vessels be equipped with "talk-back" capability.

The Coast Guard has modified the applicability section to be clearer, and has made similar clarifying changes to § 143.240(a). As for adding a requirement for "talk-back" capability, we disagree. This capability is not required on any commercial vessel and would be unnecessary for the usual purposes of a public address system.

Readiness and Testing

We redesignated proposed § 143.260 as § 143.245 and, as described earlier in this preamble, removed the functional and prescriptive designators in favor of a unified section on alternatives at the beginning of the part. One commenter suggested that the Coast Guard remove "(if available)" from proposed § 143.260(a).

The Coast Guard agrees that manufacturer's instructions are normally available, and removed the phrase "if available."

With respect to proposed § 143.260(b), the Coast Guard received several comments to amend parts of the table to clarify that the intent is for a crew change and not a watch or shift change. The Coast Guard agrees that testing the propulsion and steering controls is not necessary with every shift change, and amended the section to clarify that the test is only necessary prior to getting underway, but not more often than once every 24 hours. In the same section, one commenter suggested changing the required testing frequency of alarm setpoints and pressure safety valves from annually to every 2 years or longer.

The Coast Guard agrees and has amended Table 143.245(b) to make these requirements more consistent with similar requirements in subchapter F. Finally, one commenter suggested the Coast Guard change "pressure vessel safety valves" to "pressure vessel relief valves." The Coast Guard agrees that relief valve is the more common terminology and amended the section accordingly.

System Isolation and Markings

We have redesignated proposed § 143.270 as § 143.250. The Coast Guard received a number of comments suggesting that "graywater lines need not be fitted with isolation valves or marked if all piping is contained inside a fuel tank or void." The Coast Guard disagrees. It is not possible for "all piping" to be contained in a tank, and it is important for the piping system to be identified. However, the intent of the requirement is for crew members to be able to identify piping systems used in normal, everyday operations, and therefore it is not essential that systems in normally inaccessible spaces be identified.

One commenter suggested that the Coast Guard add a new paragraph (e) to proposed § 143.270 to cover sanitary discharges, and add "Except as provided in paragraph (e) of this section" to the beginning of this section. The Coast Guard declines to do so because the requirements in this section would apply to any system piping penetrating the hull beneath the waterline. However, variations could be accommodated through the provision for alternate design approvals that has already been discussed in this preamble.

With regard to proposed § 143.270(e), one commenter stated that the use of "either" ISO Standard 14276 or marking in accordance with the TSMS applicable to the vessel would lead to a lack of uniformity between towing vessels and is counterproductive. The Coast Guard agrees that one standard for industry color-coding of piping is preferred, but lacks the casualty data to support a mandate for one particular standard. Another commenter suggested that the Coast Guard identify the basic colors used to mark piping.

The Coast Guard declines to do so because the international standard referenced in this section already identifies basic piping colors.

Fuel System Requirements

We redesignated proposed § 143.275 as § 143.255. The Coast Guard received several comments suggesting that the requirement at proposed § 143.275(c) to replace fuel filters be based more on "performance requirements" as opposed to manufacturer recommendations. The Coast Guard partially agrees and amended the section, but considers manufacturer recommendations to be based already in part on performance requirements, such as differential pressure and time in service. We also amended proposed § 143.275(a) to clarify that the term "be maintained" used in the proposed rule means a documented maintenance plan. We also made nonsubstantive changes to proposed § 143.275(b) for brevity and clarity.

As previously discussed, we removed proposed § 143.275(d) in response to comments stating it was duplicative of proposed § 143.240(a)(9). We then added a new paragraph (d) that requires the use of diesel fuel unless approval for another fuel is obtained pursuant to § 143.210 or § 143.520. We did this because diesel fuel is considered the standard for marine fuels, and the use of more volatile fuels such as liquefied natural gas or propane requires approval by the MSC.

Fuel Shutoff Requirements

We redesignated proposed § 143.280 as § 143.260. The Coast Guard received a comment suggesting that we define "near the source of supply" as used in proposed § 143.280(c). The Coast Guard agrees with this commenter. To clarify the section, we drafted § 143.260(c) to require that the valve be installed in the fuel piping directly outside of the fuel oil supply tank. We also received a comment suggesting that the use of extra heavy piping should be explicitly allowed as an alternative to situating the valve near the source.

The Coast Guard disagrees. While such arrangements may be acceptable with proper piping materials or other design choices, locating the valve directly after the fuel supply source is the most effective way to stop a leak.

The Coast Guard received one comment suggesting that we remove the words "outside the space where the valve is installed" from proposed § 143.280(d) and instead specifically require that the valve be located on the weather deck.

The Coast Guard disagrees because a safe place outside the machinery may not always be located on the weather deck.

The Coast Guard also received one comment stating, in part, that the "requirement for remote shutdown of each engine outside the machinery space is unworkable" and suggesting the requirement should be removed.

The Coast Guard does not agree: The remote shutdown outside the machinery space is necessary in the event that the engine space is not accessible due to fire.

Additional Fuel System Requirements for Towing Vessels Built After January 18, 2000

We redesignated proposed § 143.285 as § 143.265. With respect to proposed § 143.285(b), the Coast Guard received several comments requesting clarification on the proposed regulations regarding "portable bilge pumps." A "portable bilge pump" as specified in paragraph (b) is a dewatering pump. We received a comment suggesting that the proposed rule would limit an operator's ability to dewater a damaged tow. We disagree. The regulation allows for proper stowage and use of portable tanks or cans for portable bilge pumps. The rules for the barge itself are beyond the scope of this rulemaking, but "portability" of fuel is allowed in the circumstances specified by this section. If an operator is safely able to reach a towed unit, there is no prohibition on using portable equipment to dewater or fight a fire on that unit.

The Coast Guard received a comment suggesting that the proposed regulations did not consider a "closed loop" ventilation system option for venting. The Coast Guard does not agree with this characterization of the proposed rule, because proposed § 142.285(c)(1), now designated § 143.265(c), allows tank vents to be combined, as long as there is ultimately a vent to the outside. We received a comment suggesting revisions to the required size of the vent piping. We partially agree, and the paragraph (c) has been amended for clarity on this issue.

One commenter expressed concern with the use of flexible fuel lines, noting that the use of flexible hose in the industry was "rampant," and also suggested requiring containment systems beneath oil purification equipment. This rule allows for flexible hose that meets certain incorporated standards, meaning the hose has passed pressure and fire testing. The rule also addresses the containment concern by requiring that gaskets and seals be maintained, and bilges kept free of accumulated oil.

Bilge Pumps or Other Dewatering Capability

We redesignated proposed § 143.295 as § 143.275. The Coast Guard received several comments suggesting "prescriptive" regulations, such as those for larger ships in 46 CFR 56.50, be applied to proposed § 143.295. The Coast Guard decided not to impose a prescriptive requirement for bilge pumping systems in this regulation because of the extremely large number of different configurations possible for towing vessels. A commenter said that proposed § 143.295 was not specific enough with regard to dewatering capability, noting that potentially ineffective dewatering methods such as "buckets" could be acceptable under the proposed text. We agree and have amended the section to emphasize that an installed or portable bilge pump must be available.

One commenter suggested that only "installed" (not portable) bilge piping should be required to have a check/foot valve to prevent unintended flooding. The Coast Guard agrees because a permanently installed, power-operated bilge pump is not the equivalent of a portable pump. We amended the text accordingly, as the use of a portable pump implies constant operator monitoring, which would normally prevent improper flow (backflooding).

Pressure Vessels on Existing Vessels

With respect to proposed § 143.300, the Coast Guard received several comments suggesting the application of existing pressure vessel requirements in 46 CFR subchapter F and the ASME Code. Although these are certainly acceptable for pressure vessel installations on all vessels, the Coast Guard does not have casualty data to support the mandatory use of the rigorous requirements of subchapter F by existing towing vessels. Similarly, one commenter suggested the incorporation of the ASME Code Section IV for heating boilers. The Coast Guard agrees that the ASME Code is a preferable design standard for heating boilers, and considers it acceptable for power or heating boilers on any vessel. However, the Coast Guard has no significant reportable casualty data with a root cause of boiler or pressure vessel design that justifies the increased cost of requiring all towing vessels to use the ASME Code for towing vessel boilers.

The Coast Guard received several comments suggesting that proposed § 143.300(b) be clarified with regard to examination requirements. The Coast Guard agrees and amended paragraph (b) so that pressure vessels are externally examined annually, along with relief valve testing twice every 5 years. These changes make inspection requirements for pressure vessels and relief valves more consistent with the inspection requirements in subchapter F for pressure vessels on larger ships. Because of these changes we added a new paragraph (c) to require the maximum allowable working pressure be indicated on all pressure vessels.

The Coast Guard received a question concerning the pressure vessel requirements of proposed §§ 143.300 and 143.540: "Could a towing vessel also meet the requirements of 46 CFR 61.10 in lieu of the ABS Rules as prescribed in 143.540?" The Coast Guard agrees that compliance with 46 CFR 61.10 is acceptable and equivalent to (or exceeds) the requirements in this rule. However, § 61.10 generally is applicable to large ships and the Coast Guard does not require towing vessels to meet subchapter F engineering requirements.

Electrical Systems

We redesignated proposed § 143.305 as § 143.400. The Coast Guard received several comments suggesting the Coast Guard remove the requirement at proposed § 143.305(d) that switchboards and distribution panels be labeled with a description of the loads they serve. The Coast Guard partially disagrees. For proper circuit identification during operations and maintenance, labels must be provided for the equipment served. However, the Coast Guard has removed the requirement that equipment be marked with the location of the isolating switch of circuit breaker, because the panel should indicate that information.

The Coast Guard received several comments on proposed § 143.305(i) expressing confusion on the use of male receptacle outlets when transmitting power between two receptacles. The requested changes were in line with the Coast Guard's original intent, but we decided the clearest revision would be to remove the provision about male outlets. As long as the plugs, cables, and receptacles are compatible and designed for the power to be transmitted, specifying a particular configuration is not necessary.

Shipboard Lighting

We redesignated proposed § 143.310 as § 143.410. One commenter argued that the requirement for emergency lighting in proposed § 143.310 would be prohibitively expensive for small businesses and is neither necessary nor of any value on smaller towing vessels where the crew typically knows the vessel intimately.

The Coast Guard disagrees. With respect to the cost, there are three different options for compliance, some as inexpensive as phosphorescent lighting strips. With respect to the utility this requirement in § 143.410 for internal crew working and living areas, we consider this lighting essential—even on smaller vessels—to facilitate egress in emergency situations when normal lighting is not working and dense smoke may be present.

The Coast Guard received several comments asking whether berthing spaces were required to have emergency lighting under proposed § 143.310(a). Specific berthing spaces are not required to have emergency lights. However, in the event of power loss there must be sufficient illumination in living areas to enable personnel egress from the living space. One commenter suggested adding a requirement for one flashlight per bunk. The suggestion is a good practice for mariners but the Coast Guard declines to make it mandatory.

With respect to proposed § 143.310(b)(2), the Coast Guard received several comments suggesting we lower the required automatic battery-operated emergency lighting capability from 3 hours to 30 minutes. The Coast Guard partially agrees with these comments, and has modified the requirement in § 143.410(b)(1) to 2 hours, consistent with subchapter T. The requirement of 2 hours will ensure the availability of battery-powered lights when needed, along with ample battery capacity. Emergencies that require egress from a space, such as a living space, do not necessarily mean abandoning the vessel: The crew may need to assemble on deck to fight a fire or flooding, or restart the main electrical plant. We confirmed that, for the second option, phosphorescent strips are available that provide illumination for more than 2 hours.

In addition, the Coast Guard removed proposed § 143.310(b)(1) because it was redundant with a related subparagraph in proposed § 143.340(b)(9).

Pilothouse Alerter System

The pilothouse alerter requirements are now located in § 143.450. In the NPRM, we proposed a pilothouse alerter system requirement for all vessels (see proposed § 143.210, as well as §§ 143.325, 143.515, and 143.520), with a deferred compliance date for existing vessels. We proposed this requirement in response to the NTSB report on the *Robert Y Love* allision with the I–40 Bridge, as well as eight incidents where the operator died while navigating the vessel and other cases that indicated probable incapacitation of the operator. The Coast Guard received comments supporting and opposing the inclusion of the deferred requirements proposed in § 143.325.

After considering public comments, as well as the traditional service and limited manning of towing vessels 65 feet or less in length, we determined that a pilothouse alerter system is not necessary for towing vessels 65 feet or less and have eliminated the alerter requirement for this category of vessels. This is accomplished in § 143.450(e).

We received a comment suggesting the alerter could become a distraction for harbor assist vessels. We disagree, because a compliant system could be set up to reset, for instance, each time the throttle or steering was changed. We also received comments that the alerter should not be required when a vessel had overnight accommodations but those accommodations were not in use. We decline to make a regulatory exception for this scenario, but this subchapter allows the OCMI the discretion to waive certain requirements on a case-by-case basis when appropriate.

We received a comment suggesting that requirements for systems such as pilothouse alerters should be performance-based, and flexible with regard to rapid developments in technology. The Coast Guard agrees. We have not specified a particular design for an alerter system, only that such system must meet certain performance requirements with regard to time limits and adjustability of the alarm time to suit the vessel mission.

With respect to proposed § 143.325(a)(3), imposing a 10-minute maximum acknowledgment time for the alerter, the Coast Guard received several comments suggesting that the acknowledgment time for the pilothouse alerted should be less than 10 minutes. The Coast Guard partially agrees. New paragraph (b) of § 143.450 provides that the time may be reduced by the owner or managing operator in the TSMS but must not be in excess of 10 minutes. We received a comment suggesting that the *Robert Y Love* incident would not have been prevented by an alerter set at 10 minutes. We acknowledge that it is possible that an alerter set at 10 minutes may not have prevented the incident. It is also possible that an operator could become incapacitated at any time within a 10-minute alerter reset period. In the *Robert Y Love* incident, had the pilot become incapacitated 1 minute before the alarm was scheduled to sound, it is possible another crew member could have made it to the pilothouse and averted the allision. As a reference point, we note that SOLAS requirements for larger vessels (MSC.128(75)) require a bridge watchstander alarm with an elapsed time between resets of 3–12 minutes.

We received a comment stating that "fans with paper streamers effectively fool motion detector systems." The Coast Guard notes that a motion detector-type system is but one of many options to comply with the alerter requirement. An attempt to interfere with any system installed to meet the requirements of § 143.450 would be investigated. And as stated in § 140.1000, there are statutory penalties for violating the provisions of this subchapter.

The Coast Guard received several comments suggesting that a second, adequately rested crewmember should be required in the pilothouse at all times, as well as comments suggesting a second crewmember is an unnecessary expense. The Coast Guard partially agrees with both comments. A second adequately rested crewmember in the pilothouse of a towing vessel, while not required by this section, is an acceptable alternative to the pilothouse alerter system as stated in § 143.450(d). We chose not to require that a second crewmember be in the pilothouse because, in light of the thousands of vessels of all sizes that safely operate with a single crew member on the bridge or operating station, depending on maneuvering circumstances, we could not justify the significant cost of requiring an additional watchstander on all towing vessels. However, under 46 U.S.C. 8104 and 46 CFR 15.705, it remains the master's responsibility to provide an adequate watch.

The Coast Guard received a comment requesting clarification of the pilothouse alerter requirements for vessels with more than one operating station. Because the alerter is required to detect incapacitation of the vessel pilot, the system must be arranged to alarm at each operating station. There may be various system configurations that meet the intent of this requirement.

Towing Machinery

The towing machinery requirements are now located at § 143.460 and apply to all vessels, with a deferred compliance date for existing vessels. In connection with proposed § 143.330(b) the Coast Guard received several comments requesting an example of an acceptable safeguard against the towing machinery becoming disabled if the tow gets out of line. The Coast Guard agrees, and added an example of a common safeguard to this section. We also received a comment suggesting that the "winch slippage alarm" sound in the pilothouse. The Coast Guard agrees such an alarm would be beneficial to operations, but we do not have the casualty data to support the mandate of such a system.

Deferred Requirements for Existing Vessels (Proposed Subpart C)

As discussed earlier in this preamble, we removed proposed subpart C. We relocated to subpart B the requirements for pilothouse alerter systems and towing machinery, and retained the deferred compliance date for existing vessels: These requirements are discussed earlier in this preamble. We removed proposed § 143.335 on remote shutdowns because a similar effect is accomplished through proposed § 143.280 (now § 143.260) on fuel oil shutoff, and because remote fuel shutoff is already required by 46 CFR subchapter C.

The remaining deferred provisions of proposed subpart C—§§ 143.340 through 143.360 on specific electrical arrangements for existing towing vessels—have been moved to subpart C for new vessels. They do not apply to existing vessels. We made this change in response to comments indicating these provisions were not appropriate for existing vessels. Specifically, the Coast Guard received many comments recommending the deletion of the prescriptive requirements in proposed §§ 143.340 through 143.360. Commenters characterized the proposed requirements as burdensome, costly, requiring extensive modifications, and not justified by risk.

The Coast Guard does not agree that the proposed requirements were unjustified. Part 143 was developed in response to the recommendations in Sections 6.1 and 6.2 of the ABSG Consulting report, which were based on the risk analysis results in Section 4.3 of the report. See Uninspected Towing Vessel Industry Analysis Project Final Report, issued August 2006 and prepared by ABSG Consulting Inc., and Section III.C of the NPRM (76 FR 49978). An industry analysis project team performed a detailed analysis of the towing industry data from a number of data sources, such as MISLE and site visits. The team also used industry data provided by AWO as part of the Coast Guard-AWO Safety Partnership. Two previous examinations of towing vessel accident studies were also considered: The TSAC Towing Vessel Inspection Working Group report (TSAC 2005) and a report by the Coast Guard Allision Working Group (BAWG 2003). These risk analyses support characterizing the proposed requirements as risk-based.

However, several comments asserted that the functional requirements in proposed subpart B, "Requirements for All Towing Vessels," are sufficient for all existing towing vessels. These commenters recommended the removal of proposed subpart C, "Deferred Requirements for Existing Towing Vessels." Further, the Coast Guard believes that many existing towing vessels were originally built to acceptable national or marine standards. Those would already be in substantial compliance with many of the requirements of subpart B of part 143 of the final rule.

The machinery and electrical requirements in subpart B will provide the owners or managing operators of existing towing vessels with the standards that existing equipment and installations must meet or should have met during the construction of towing vessels. Third-party inspections and eventual certification of electrical and machinery systems of existing towing vessels that are in marginal condition or poorly maintained may require some upgrades but may not necessarily need extensive modifications of the vessel's systems. Commenters provided estimates of the cost of extensive retrofits to existing vessels in the range of $75,000 to $300,000 per vessel, considerably higher than the cost estimated in the NPRM Regulatory Analysis ($5,000 to $20,000 per individual requirement). Further, comments indicated that the need for retrofits to comply with the regulatory requirements in proposed §§ 143.340–143.360 would impact more than the generally less than 5 percent of vessels per requirement estimated in the NPRM Regulatory Analysis. The net result in total costs could exceed $300 million (10-year, undiscounted). For these reasons, the requirements in proposed §§ 143.340–143.360 that were proposed to apply to all towing vessels will now apply only to newly built towing vessels, which includes vessels undergoing a major conversion. Comments pertaining to the substance of those standards are discussed later in this preamble.

Requirements for Oil or Hazardous Material in Bulk (Proposed Subpart D)

The proposed rule included deferred requirements for vessels that tow oil or hazardous material in bulk. In response to comments indicating these provisions were not appropriate for existing vessels, we removed these requirements from existing vessels and relocated the provisions to subpart C on new towing vessels. Comments pertaining to the substance of those standards are discussed later in this preamble.

Subpart C, "Requirements for New Towing Vessels"

Because of the organizational changes discussed earlier in this preamble, proposed subpart E for new towing vessels is now designated subpart C. We revised the applicability section in line with the organizational changes described in our discussion of subpart A, and made nonsubstantive editorial changes. We also removed proposed § 143.505, as its content is now covered by the applicability section at § 143.500. In § 143.510, we replaced the phrase "plan approval" with the more accurate language "verification of compliance with design standards." We removed § 143.530 as unnecessary in light of other revisions to the part.

The "classification option" has changed little between the NPRM and the final rule. For a new towing vessel, the same three options apply in the final rule as in the proposed rule: New vessels may be built to recognized classification society standards (§ 143.515); to ABYC standards (§ 143.520) for smaller towing vessels; or to neither standard, but instead be subject to the requirements set out in subparts B and C of part 143. As an alternative to complying with the electrical system requirements that are now listed in subpart C, the vessel may instead comply with certain ABS rules as set out in § 143.580; this alternative is substantively the same as was proposed in the NPRM.

As was the case in proposed § 143.515, even vessels built to ABS rules or classed by ABS must comply with specific provisions of part 143. In this final rule, those provisions are the requirements for vessels that move tank barges carrying oil or hazardous material in bulk (§§ 143.585 through 143.595), the readiness and testing requirements of § 143.245, and the pilothouse alerter requirements of § 143.450. The readiness and testing requirements of § 143.245 help verify proper in-service operation and safety of main and emergency systems, above and beyond the initial design requirements of part 143. As discussed above, the proposed potable water requirements have been removed, but they remain a health and safety requirement under § 140.510(a)(14). Also, in this final rule we created flexibility by providing for approval of towing vessels built to recognized classification society rules other than ABS's.

Section 143.520(a) remains substantially as proposed, but paragraph (b) has been revised to remove several requirements. New towing vessels of 65 feet or less in length that are built to the ABYC standards listed in paragraph (a) need only comply with the readiness and testing requirements of § 143.245, and with the requirements for vessels that move tank barges carrying oil or hazardous material in bulk (§§ 143.585 through 143.595) if applicable. Other requirements have been removed for these vessels, including the pilothouse alerter requirements.

Pressure Vessels on New Vessels

We redesignated § 143.540 as § 143.545. With respect to proposed § 143.540(b), the Coast Guard received several comments requesting alternate standards to the ABS rule referenced for pressure vessels. While the ABS rules referenced are an industry standard for pressure vessels, the Coast Guard may determine other design standards, such as the ASME Boiler and Pressure Vessel Code, to be equivalent as described in § 143.210. Therefore, we made no changes to this paragraph in response to this comment.

Electrical Engineering Systems

Several comments also recommended the proposed prescriptive requirements in proposed §§ 143.340–143.360 should not apply to new towing vessels. The Coast Guard does not agree. The proposed requirements of these sections are based on the present acceptable national or marine electrical engineering standards. As explained in Section IV of the preamble to the proposed rule, the Coast Guard developed part 143 after considering the reports provided by ABSG Consulting and TSAC, which were generated from marine casualty cases and risks. Also, as stated in the preamble to the proposed rule, the Coast Guard conducted its own in-depth analysis of the cases reviewed for the ABSG report, along with deficiency reports from examinations of towing vessels during compliance exams conducted pursuant to 33 CFR part 104 as part of the implementation of the Maritime Transportation Security Act of 2002 (MTSA) (46 U.S.C. Chapter 701). These reports provided evidence that substandard machinery installation and maintenance is a concern on towing vessels. For example, from January 2006 through August 2008, the Coast Guard conducted 768 of these MTSA compliance examinations of towing vessels and issued 2,949 deficiencies. Electrical deficiencies involving installation and maintenance accounted for 8 percent (226) of the deficiencies. This 8 percent deficiency rate highlights the need to establish more specific standards for electrical installations on towing vessels. The current regulations in subchapter C for electrical installations on uninspected vessels are minimal and not adequate for towing vessels. In addition, the incremental cost to incorporate the new standards into the design and construction of a new vessel are low in comparison of the total construction costs of the vessel and the potential reduction in risk of fire.

Several commenters provided cost estimates to retrofit an existing vessel to comply with the proposed requirements in §§ 143.340–143.360 that range from $75,000 to $300,000. These estimates are higher than the cost estimated by Coast Guard in the NPRM Regulatory Analysis (which ranged from $5,000 to $20,000 per requirement ($60,000 per vessel if all of the requirements are incurred). The comments also indicated that far more vessels would require the retrofits than was estimated in the NPRM Regulatory Analysis. The NPRM estimated annualized costs of part 143 at $3.2 million and the benefits at $5.7 million. If the high end of the costs per vessel of $300,000 were used, the annualized costs could as much as triple. Increasing the affected population for the retrofits as per the comment would increase the costs even more. Given the new information on the potential range of costs and affected population, the Coast Guard has determined that the benefits of the NPRM's proposed deferred requirements for existing vessels will not outweigh the costs. Given the potential cost burden of retrofitting existing vessels, the baseline electrical requirements for existing towing vessels in the final rule, coupled with a robust inspection regime, will establish an adequate safety environment for towing vessels.

The electrical requirements in this final rule will provide the owners or managing operators the design and engineering standards for equipment and installations for new construction. The prescribed electrical power and distribution system designs are based on proven electrical recommendations, practices, and consensus-based standards.

Electrical Power Sources, Generators, and Motors

We redesignated proposed § 143.340 as § 143.555, and made nonsubstantive changes to simplify and shorten the section. The Coast Guard received several comments suggesting that proposed § 143.340 be clarified so that a backup generator could be used as a secondary power source. The Coast Guard agrees, and amended the text in paragraph (a)(3) to better explain the requirements for backup power source.

We also received a comment suggesting the proposed § 143.340 may be interpreted as requiring duplicate essential systems such as radar or emergency lighting. We did not intend the original language to be read that way, and have amended the corresponding section of the final rule to clarify that emergency communications and navigation equipment must be provided with a backup power source.

We received a comment stating that the electrical load analysis requirements of proposed § 143.340 were "excessive and unnecessary". Although the Coast Guard believes that a load analysis is required for nearly all vessels with generators, we presume that load analysis has already been done for existing vessels and is therefore applicable only to new towing vessels. This change is reflected in this final rule. We also simplified the analysis requirement by removing proposed paragraph (b)(2).

The Coast Guard received several comments suggesting we include the specific NEC reference in article 430 in this section. The Coast Guard agrees and amended the section by specifying that Parts I through VII of article 430 are required. These Parts of Article 430 further define the scope of motor overcurrent protections required. We also received comments suggesting that the proposed requirements in § 143.340 will require "complete rewiring" of inland towing vessels. This comment is addressed by our decision to apply these requirements only to new vessels.

The Coast Guard received several comments suggesting we lower the ambient temperature rating at paragraph (b)(7) of this section from 50 °C to 40 °C, similar to ABS rules. The Coast Guard partially agrees. The Coast Guard amended the section so that the generator does not need to be certified to operate in an ambient temperature of 50 °C if it can be shown that the space the generator is in does not exceed 40 °C. This reduction in minimum ambient temperature rating reflects an established normal ambient temperature allowance, even for large vessels currently regulated by the Coast Guard.

With respect to proposed § 143.340(b)(9) (now designated § 143.555(b)(8)) the Coast Guard received several comments suggesting clarification on what the Coast Guard meant by "two independent sources of electricity" in this section. To clarify, the prescriptive requirement in what is now paragraph (b)(8) requires a minimum of two sources of power. For example, if a generator provides the normal source of power for navigation lights, there must be another generator or a battery bank arranged as a secondary power source. One commenter suggested adding the word "essential" to paragraph (b)(8) this section. The Coast Guard agrees, and has modified the text accordingly. We have also amended the section to specify the radios and navigation equipment required in §§ 140.715 and 140.725. This change is in line with other comments suggesting that we include the distress alerting communications equipment listed in §§ 140.715 and 140.725. These comments also suggested that the backup power source for the distress alerting communication equipment have a means of monitoring the voltage available, and the source of supply selected either by an automatic switchover or a simple switch in the vicinity of the emergency distress alerting communications equipment. The Coast Guard agrees that distress alerting equipment should be added to this section, and also that a means must be provided to monitor the battery condition, and amended the section accordingly.

We received a comment suggesting that, if a battery were to serve as the required secondary power source, it would need to be unnecessarily oversized for the loads specified. We mostly disagree; there is no requirement that the secondary power source be a battery (*e.g.*, the secondary source could be a generator). The electrical loads specified in this section are not necessarily large consumers, and any battery sized for these loads needs to be sized proportionally, not oversized. Also, this requirement in proposed § 143.340 has been amended to apply only to new towing vessels.

However, we agree with the commenter that some alarms may not require a secondary power source, and have amended this section to be specific as to which alarms require secondary power.

We received comments suggesting removal of the requirement in proposed § 143.350 to separate overcurrent protection for essential and non-essential systems. We disagree, because the intention is to prevent opening the circuit on essential loads because of a fault in a non-essential system. This requirement has been amended to apply only to new towing vessels.

We received a comment suggesting that "essential systems" be defined to avoid confusion in the inspection process. The Coast Guard agrees, and notes that a proposed definition of essential system was included in proposed § 136.110. However, we have amended the requirements of § 143.555 of the final rule to provide clarity on this issue.

Electrical Grounding and Ground Detection

We redesignated § 143.355 as § 143.570. With regard to proposed § 143.355 the Coast Guard received several comments stating that most towing vessels are ungrounded, and that the section should specifically adopt the ground detection requirements of 46 CFR 183.378. Proposed § 143.355 did not prohibit the use of ungrounded systems. The Coast Guard recognizes that towing vessels can have either grounded or ungrounded electrical distribution systems. We agree with the comment, however, and therefore added detection requirements similar to 46 CFR 183.378. This requirement applies only to new towing vessels, and the requirements are based on vessels regulated under subchapter T, which have similar electrical systems. While revising this section, we modified paragraph (e) to consolidate paragraphs (e)(1) and (3).

The Coast Guard also received several comments stating that this section does not allow the use of common two-prong appliances less than 50 volts or two-prong double-insulated tools. The Coast Guard considers the use of two-prong double-insulated tools to be an acceptable industry practice, and amended the section to allow the use of double-insulated tools, or two-prong appliances of less than 50 volts.

Electrical Conductors, Connections, and Equipment

We redesignated proposed § 143.360 as § 143.575. As discussed elsewhere in this preamble, we received comments stating that existing vessel compliance with this section and other electrical sections in the NPRM would involve substantial costs and retrofitting. The bulk of these comments are addressed by making these electrical requirements applicable only to new vessels.

With respect to proposed § 143.360, the Coast Guard received several comments suggesting we clarify paragraph (a)(2) with respect to overhead wiring. The Coast Guard agrees, and amended the section to specify that this requirement is applicable to overhead and vertical cable runs supported by cable hangers.

We received a comment suggesting the use of a performance standard rather than a specific cable hanging method. The Coast Guard partially agrees with the concern, but could not find an acceptable performance standard, so we have amended the section to allow a 48-inch spacing, rather than the proposed 24 inches, to be consistent with recognized electrical-contracting standards.

In paragraph (a)(3) of that section, one commenter suggested that wiring be allowed within 24 inches of moving machinery if the wiring is protected. The Coast Guard agrees, and amended this section to be applicable to cable and wire runs. We also clarified that cable and wire runs within 24 inches of moving machinery must be adequately protected to prevent damage, and added text to clarify what "moveable machinery" means.

In paragraph (b), one commenter suggested replacing the phrase "may not" with "must not"; the Coast Guard agrees that this language is clearer. This requirement is consistent with the permitted use of flexible cords or extension cords in Section 400.7 of the National Electrical Code (NEC), and Section 24.6.1 of IEEE 45–2002.

In paragraph (c), the Coast Guard received several comments stating that this section prohibits the use of power strips. The intent of this section is not to prohibit the use of multi-outlet adapters (power strips), but to prevent "daisy-chaining" of power strips, which may overload the circuit. We have amended this section to clarify the requirement to prevent circuit overload when using power strips.

Towing Vessels That Tow Oil or Hazardous Material in Bulk

Because of the reorganization discussed earlier, a separate subpart for towing vessels that tow oil or hazardous material is no longer required. Proposed §§ 143.405 through 143.435 have been incorporated into the final rule's subpart C for new vessels. The requirements of proposed subpart D will not apply to existing towing vessels. This change responds to many comments arguing that proposed subpart D should not apply to existing vessels.

Commenters who opposed the application of proposed subpart D to existing vessels argued that the proposed requirements were not based on risk; would require unjustified or wholesale retrofitting; would cause severe economic penalty, disproportionate financial hardship for small towing companies, and might eliminate certain classes of towing vessels. Also, several comments asserted that the Coast Guard ignored the decline in the frequency and amount of oil spills from tank barges over the last twenty years. Other comments mentioned that the proposed requirements in subpart D will have little impact on the prevention of oil spills in the tank barge sector because, as noted by TSAC, "Current industry best practices have produced a dramatic reduction in oil spills from tank barges over the last decade and a half, with a record low 919 gallons spilled (out of nearly 65 billion gallons transported) in 2010, the last year for which complete Coast Guard statistics are available." Also, industry comments mentioned that the preamble cites S. 1892, a bill introduced into the 110th Congress, as a reason for including the proposed subpart D in part 143, and note that this bill never became law.

We proposed subpart D based on the statistics from the ABSG report, which included high and low consequence incidents. Given the casualty history presented in the ABSG report, the Coast Guard determined that the proposed requirements could reduce the ongoing risk of oil spills and the resulting consequences. Data on oil spills through 2014 shows a continual pattern of a few major spills contributing to the majority of the volume spilled each year. Even though a recent TSAC report notes a dramatic reduction in oil spills from tank barges over the last decade and a half, the casualty data through 2014 indicates that minimum safety standards for engineering system design, coupled with a robust inspection regime, would maintain or even further reduce the risk of spills.

Several commenters provided information on the cost to retrofit existing vessels to comply with the Subpart D requirements. The estimates range for all of the deferred requirements from $75,000 to $300,000 per vessel, higher than the Coast Guard estimates in the NPRM Regulatory Analysis. Existing vessels are already designed and constructed, so requiring a complete replacement of some vital engineering systems is neither practical nor justified by the safety benefit achieved.

In light of the new information on the costs for retrofitting existing vessels, the requirements of the proposed §§ 143.340 through 143.435 have been removed for existing vessels. The requirements are retained in the final rule for new towing vessels, as there is a smaller incremental cost to incorporate the design features in a new vessel.

Several commenters misinterpreted the proposed requirements in proposed §§ 143.405, 143.410, and 143.420 (now §§ 143.585, 143.590, and 143.595) regarding the installation of a second main engine. The intention of the proposed rule was to require redundancy of necessary auxiliaries, allowing a sustained or restored propulsion capability of the towing vessel—not to require redundant engines. The proposed requirements did not prohibit a towing vessel with single propulsor, but only placed requirements for support equipment (auxiliaries) on vessels with one propulsor. The requirements differentiate between independent and/or redundant control systems and the propulsion systems under remote control. For example, on a vessel with two propulsion engines, the proposed rule requires the remote control of one engine to be independent of the remote control of the other engine. For risk reduction, the proposed requirements would ensure that when one engine remote control fails, remote control of the other engine would remain operable. We have also modified what is now § 143.595 for vessels with one propulsor, to clarify which equipment is considered a vital auxiliary, and eliminated the requirement that this equipment "automatically" assume the function of the failed unit. Although it is acceptable for vessels to have equipment that automatically starts when other equipment fails, it is not absolutely necessary, and in fact it may be preferred for crew members to visually assess a failure or impending failure of the primary equipment before deciding to manually start the redundant equipment.

In proposed § 143.405 (now § 143.585), one commenter suggested preventative maintenance schedules and additional required training in lieu of some of the requirements in this section. The Coast Guard disagrees. While an attentive operator may notice problems before the associated alarms and redundancy requirements are triggered, the alarms (with appropriate delays) are required as a means to alert the operator. We received a comment suggesting separation of the propulsion and steering requirements in this section. The Coast Guard acknowledges that propulsion and steering are two separate and vital systems, but the requirements for alternate arrangements and independence for these systems as specified apply to both propulsion and steering. Additional propulsion requirements are also specified in §§ 143.590 and 143.595.

We also received a comment suggesting the use of a "bow steering module," which is essentially an assist vessel attached to a barge propelled by a traditional towboat. Although the Coast Guard agrees that a bow steering module may be considered equivalent to the requirements of an alternate means of propulsion and/or steering, this type of arrangement would need to be determined in particular cases by the OCMI or the Commandant for equivalency.

With respect to proposed § 143.405 (now § 143.585), one commenter asked whether paragraph (k) requires automatic starting of a standby generator or if the loads referenced should be on battery backup. The Coast Guard agrees that the proposed section was unclear and amended the section by specifying a second source of supply that is capable of automatically starting, and of helping to restore or maintain power to propulsion, steering and related controls when the main power source fails. This requirement will provide continued or restored operation of a towing vessel that moves tank barges carrying oil and hazardous material in bulk, even if the primary systems fail. One commenter was confused about what the Coast Guard meant by "stored energy" in paragraph (l). The Coast Guard clarified this section by providing examples of "stored energy systems" that are generally used onboard towing vessels. We also simplified this section by removing paragraph (l)(2) as not necessary for towing vessels.

With respect to proposed § 143.420 (now § 143.595), we added a clarifying description of "vital auxiliaries" in paragraph (a).

One commenter asked if proposed paragraph (d)(2) required two hydraulic tanks for steering. In response to the commenter, an acceptable arrangement would consist of two independent hydraulic tanks, or one hydraulic tank separated by a solid baffle, which is considered equivalent to two tanks. However, the Coast Guard has determined that the steering system requirements of § 143.550 are sufficient, that the requirements of § 143.595 are intended only for vital auxiliaries for propulsion, and so we have eliminated the steering system paragraphs from this section. Also, the fuel system requirements of proposed § 143.420(c) were redundant to current § 143.265, so we removed that paragraph.

We received a comment suggesting elimination of proposed redundancies in systems for vessels towing oil or hazardous material, and leaving those types of decisions for a case by case determination in the vessel's TSMS. We disagree, because it is important for vessels with one propulsor to have redundancies in the vital auxiliaries—such as fuel, lube oil, and cooling water—supporting the engine. However, this section has been amended to apply only to new towing vessels.

We received a comment suggesting "grandfathering" proposed deferred requirements because of prohibitive costs, and have addressed this comment by applying these requirements to new vessels only. Another commenter requested clarification of "independent" as opposed to "redundant." Those terms have distinct meanings, but we agree that the proposed text could be clearer, and have amended §§ 143.115, 143.590, and 143.595 to define and use the term "independent." In this subpart, "independent" means the ability to perform a function regardless of the status of another system, and "redundant" is not used in subchapter M.

N. Construction and Arrangement (Part 144)

We received general comments suggesting the requirements proposed in part 144 were not justified by risk-based decisions and should therefore be removed. A commenter felt that some proposed regulations in this part are too stringent: For example, the commenter felt that the stability requirements in subparts A, B, and C of part 144 are not reflective of the loss history for inland vessels.

We disagree with the characterization of proposed part 144 as not risk-based and, further, we believe they represent the minimum safety standard of construction and arrangement that is common to all inspected vessels. While there are some requirements applicable only to new towing vessels, these requirements do not exceed the requirements imposed on other types of small inspected vessels and, for this reason, we do not agree that they can be considered to be too stringent. As for existing towing vessels, we find no requirements in this rule that would require costly modifications to a properly maintained and satisfactorily functioning existing towing vessel.

Three commenters suggested that organizing vessels into two subparts, existing vessels and new vessels, instead of three subparts, would be easier for issues related to grandfathering. We generally agree that the proposed regulations would benefit from reorganization, and we have modified this part to delete requirements repeated in other parts of the subchapter or that were too vague. Further, we agree with the commenters with respect to organizing requirements into a format that is more aligned with other inspection subchapters.

A majority of the requirements are either the same or very similar to requirements contained in the Construction and Arrangement part in subchapter T, Small Passenger Vessels (46 CFR part 177). We aligned part 144 with the organization, and subpart and section titles, of part 177. This organizational choice also better reflects the relatively large number of part 144 requirements that apply to both existing and new vessels, and the relatively small number that apply to new vessels only. As a result of these changes, we use the term "vessel" when discussing requirements that apply to both new and existing vessels, and use the specific terms "new" or "existing" vessel to describe those that apply only to one or the other. At the end of this discussion of comments on part 144 and structures and stability, we have provided a derivation table that lists part 144 section numbers in this final rule and the proposed sections from which they derived. Also, where appropriate, we have noted the corresponding part 177 section number or an explanation of an edit.

We received several comments, mainly from maritime companies suggesting revisions to § 144.215. Commenters suggested that special consideration be given to structural requirements for towing vessels "operating exclusively within [limited geographic areas], and towing vessels under 65 feet in length, in addition to towing vessels of an unusual design."

We agree with these commenters that the types of vessels for which special consideration may be given in proposed § 144.215 should be clarified, and we have adopted the suggested under-65-feet-in-length measure to define what we had described as "small vessels" in the proposed rule. This rule also provides that special consideration may be given to vessels operating exclusively within a limited geographic area, because the OCMI is familiar with the specific hazards of the limited geographic areas within his or zone.

Commenters felt that proposed § 144.220(a) should be edited to ensure that routine upgrades to equipment, such as engine repowering, would not require compliance verification. Further, towing companies felt that proposed § 144.220(a) and (b) should be revised to clarify the intention of the terms "major conversion or alteration" and "replacements in kind."

The Coast Guard believes that compliance verification with design standards for upgrades to equipment, such as engine repowering, as in proposed § 144.220(a), should be retained because of possible changes to stability and other vessel characteristics related directly to safety. We have done so in this final rule in our redesignated verification of compliance section, § 144.135.

With respect to the request to clarify the terms "major conversion or alteration" and "replacement in kind" in proposed § 144.220(a) and (b), in § 136.110 we have clarified our proposed definition of "major conversion" and added a definition of "replacement in kind." We note that § 144.135 uses the phrase "major conversion or alteration": Although "alteration" is not defined in this rule, we use the term as it currently used in 46 CFR 91.55–10 to mean an alteration that involves the safety of the vessel. Separately, we have reformatted the text of § 144.135 in tabular form to make this section easier to read.

The term "verification of compliance" in part 144 addresses verifying that the design of a vessel meets the standards used. To distinguish this activity from the compliance verification required in part 137 under the TSMS option, we have added the words "with design standards" to this term. We also removed from this section the provision that a verification of compliance be performed upon request of the Coast Guard because this is covered by part 136.

To provide more options for the qualifications in proposed § 144.225, now re-designated § 144.140, we have extended the group of entities able to verify compliance with design standards to include the Coast Guard and certain authorized classification societies, not just ABS. For the purposes of this verification, the authorized classification society must have been delegated the authority to issue a SOLAS Cargo Ship Safety Construction Certificate and the employee who performs the verification must have the proper qualifications. Similar references to ABS with respect to a verification of compliance with design standards have been revised accordingly. Regardless of the inspection option chosen, the verification of compliance with design standards can be performed by any one of the persons or entities identified in § 144.140.

Some commenters discussed the costs of developing plans for review. Two maritime companies suggested that proposed § 144.230, Procedures for verification of compliance with construction and arrangement standards, would be costly for companies with older vessels that were constructed without plans produced by a naval architect. A maritime company suggested alternatives for hull structure and piping, electrical, machinery systems and stability reviews that it viewed as more cost-effective.

Proposed § 144.230, now re-designated § 144.145, was intended for vessels undergoing a major conversion or alteration to the hull, machinery, or equipment—as described in proposed § 144.135. A major conversion often results in an extension of the vessel's service life. Therefore, the procedures in § 144.145, would not be invoked unless required by § 144.135. Because § 144.135 does not require a verification of compliance with design standards for an existing vessel, we do not envision that an owner or operator would need to provide plans to ensure the existing vessel complies with the standards used. A new towing vessel will need to undergo a verification of compliance with design standards.

We have clarified procedures for verification of compliance with design standards to require copies of verified plans be provided to the third-party organization that conducts a survey, if applicable, in addition to the OCMI.

Two commenters suggested that because naval architects are well qualified, a P.E.'s signature is not needed for vessel construction. While many naval architects are also licensed P.E.s in the jurisdiction in which they reside or conduct their business, not all are. The benefits of P.E. licensure are well documented and accepted in the United States. The requirement for a P.E.'s seal on vessel construction plans may be considered commensurate with that required for buildings within a municipality. Accordingly, we clarified in § 144.145 that the documents must be stamped with the seal authorized for use by the individual performing the verification, whether that is the P.E. or a representative of the recognized classification society or the Coast Guard. We acknowledge that there may be gaps in documentation of smaller vessels, so we have clarified that the term "plan" means drawings, calculations, schematics, diagrams or other documents and provide a list of what those plans may include, based mostly on 46 CFR 177.202.

We have clarified and revised the provisions for sister vessels in proposed § 144.235, now re-designated § 144.155, to be consistent with §§ 144.135, 144.140, and 144.145.

Two commenters said that the marking requirements in proposed § 144.240 should include the same basic colors used to mark piping for flammable liquid, seawater cooling, and firefighting systems proposed in § 143.270(c). We do not agree that piping marking requirements in part 143 need to be repeated in part 144. We made no changes from the proposed rule based on these comments.

Both proposed § 144.310(a) for existing vessels and proposed § 144.405 for new vessels specified that a vessel classed by ABS would meet the structural standards of part 144, because ABS rules include stability standards that generally meet those contained in Coast Guard regulations. We have consolidated those sections into § 144.120, stating that a vessel that is classed by a recognized classification society is in compliance with subparts B and C of part 144. In accordance with proposed § 136.210(c), as well as similar changes in this rule, we have acknowledged that structural and stability standards contained in the rules of other recognized classification societies are commensurate with ABS rules, and have extended this provision to class by a recognized classification society.

In a similar way, we recognized that proposed § 136.210(d) deemed a vessel with a valid load line certificate to be in compliance with structural and stability standards, among others, and since proposed § 144.310(b) repeated this, § 144.125 contains this text.

In proposed §§ 144.305 and 144.310, we proposed structural standards for an existing vessel. These are now contained in § 144.200, which has been aligned with §§ 144.120 and 144.125 to avoid repetition. As provided in proposed § 144.305(a), an existing vessel to which no construction standard was applicable would need only show that it has been in satisfactory service and its service history does not cause the structure of the vessel to be questioned. Similarly, structural standards for new vessels that we proposed in § 144.410 are now contained in § 144.205. The use of alternate design standards is covered by § 136.115 as discussed elsewhere in this preamble.

Because the requirements of proposed §§ 142.220(c) and 144.350(a) were so similar, we have merged them into § 144.415.

A commenter said that proposed § 144.315 and § 144.415 regarding stability standards would not apply to all vessels and was concerned about grandfathering a number of vessels that may be unstable and remain uninspected. As discussed in more detail elsewhere in this preamble, this final rule focuses on the towing vessels presenting the greatest risk. Further, several commenters stated that stability is not a problem on inland towing vessels. The Coast Guard notes that casualty records generally support this view. For an existing vessel that will be inspected, the stability standards for an existing vessel in § 144.300 will require the vessel to show it has a history of satisfactory service that does not cause its stability to be questioned, or meet a similar standard that ensures adequate stability. Stability standards for a new vessel in § 144.305 will require the vessel to show it complies with minimum standards that are applied to other inspected vessels. One commenter suggested that a minimum freeboard of "like 24 inches" for all vessels would improve stability standards. While the Coast Guard agrees that a requirement for such a freeboard may improve stability, both the degree of the stability improvement and its benefit are unknown and, for this reason, a freeboard requirement of this amount was not included in this final rule.

An association commented that that the proposed regulation (§ 144.355) does not contain size requirements and specifications for accommodation spaces for the crew. The commenter recommended several specifications to be included in the regulations.

The Coast Guard declines to adopt the suggested specifications. Our proposed requirements for accommodation spaces for the crew on towing vessels subject to inspection under this subchapter were contained in proposed § 144.355 and were generally taken from subchapter T—small passenger vessels. In response to comments, we have amended proposed part 144 to include a subpart dedicated to crew spaces. Crew space requirements in this final rule, as we proposed in the NPRM, are based on performance standards rather than prescriptive size requirements.

With respect to proposed storm rail requirements in proposed § 144.340, now re-designated § 144.810, we added the option of hand grabs but removed the requirement for storm rails on both sides of a passageway more than 6 feet wide because there are no towing vessels to which this subchapter would apply that would have such a wide passageway.

An individual suggested the removal of proposed § 144.345, Guards in dangerous places, because of its similarity to proposed § 143.230. We decided to keep this requirement, now designated § 144.820, in part 144 and delete the similar requirement in part 143.

With respect to insulation of hot piping, we retain the requirement for existing vessels in proposed § 144.350(b), now redesignated § 144.830, and for new vessels we provide a similar but more specific requirement that aligns with an existing requirement in 46 CFR 177.970.

In reference to a collision event involving the tug *Caribbean Sea* and a "Duck" tour boat in Philadelphia in 2010, a commenter recommended that the NPRM include "height of eye" guidelines for towing vessels. The commenter also suggested that the Coast Guard consider including the "transmissivity of light" through glazing materials on towing vessels in proposed § 144.325 or § 144.425.

The Coast Guard notes that while "height of eye" requirements are not specifically addressed in this rule, the regulations in subpart I require windows and other openings at the operating station to be properly located to provide a clear field of vision. As proposed in both §§ 144.325 and 144.425, the visibility of the windows immediately forward of the operating station in the pilothouse must allow for adequate visibility regardless of weather conditions. In response to the idea to include a "transmissivity of light" requirement, the Coast Guard notes that 46 CFR 177.1030(b) includes such a standard for operating station visibility for small passenger vessels and we decided to include this same requirement at what is now § 144.905(e).

TABLE 2—DERIVATION OF SECTIONS OF PART 144 FROM THE NPRM

Final rule section No.	NPRM Section No.(s)	Notes (if necessary)
144.100	144.100	Revised text referring to "plan review and approval" to "verification of compliance" for clarity.
144.105	144.200, 144.300, 144.305, 144.400	Created general applicability section, § 144.105, after removing definition section. Our revisions to part 144 eliminated subparts specifically for all vessels, existing vessels, and new vessels, so we combined applicability sections for those subparts into § 144.105. In paragraph (b) that refers to alterations or modifications, text similar to that contained in SOLAS Chapter II–1/1.3, ". . . insofar as is deemed reasonable and practicable" is added to reflect actual process that will be addressed in the verification of compliance with design standards.
	144.105 144.110	Removed § 144.105, Definitions; added definition of "length between perpendiculars or LBP" to § 136.110. Derived definition for LBP term, used in final rule §§ 144.155 and 144.315, from § 170.055. We moved the content of the former § 144.110 to a consolidated central incorporation by reference section for the entire subchapter, § 136.112.
144.120	144.310(a), 144.405, 136.210(c)	While proposed § 144.310(a) addressed only structural adequacy, proposed § 136.210(c) was broader and referred to compliance with the entire subchapter. This section reflects the general satisfaction of subparts B and C of part 144 by vessels currently classed by a recognized classification society.
144.125	144.310(b), 136.210(d)	While proposed § 144.310(b) addressed only structural adequacy, proposed § 136.210(d) was broader and referred to compliance with the structural, drydocking, and stability requirements of the subchapter. This section reflects the satisfaction of structural, stability, and watertight integrity requirements by a vessel holding a valid load line certificate.
144.130	136.115(b)	Vessel in compliance with SOLAS is considered to be in compliance with part 144.
144.135	144.220	Verification of compliance requirements are placed into a table for clarity.
144.140	144.225	Qualifications revised into a table for clarity.
144.145	144.230	Procedures for verification are clarified with minor revisions that include a clarification that "stamped" means the imprint of the seal of the P.E. and that "plans" include a list of drawings, diagrams, calculations, schematics and other similar documents.
144.155	144.235	Sister vessel verification clarified with general revisions. Among these is a change of "same plans" to "verified plans" and "equipped with same machinery as the first vessel" to "equipped with machinery of the same make and model as the original vessel."
144.160	144.240	General marking requirements clarified with general revisions including a more appropriate reference to draft mark required in subchapter I at 46 CFR 97.40–10.
	144.205	Proposed section on TSMS deleted because the proposed TSMS requirements are contained in parts 137 and 138.
	144.210	Proposed section with general requirements deleted because the general requirement is repeated from parts 136 and 137.
144.200	144.310	Structural standards for existing vessels are contained in this section.
144.205	144.410	Structural standards included for new vessels including rules and alternatives.
144.215	144.215	This section is revised to clarify conditions under which OCMIs may act on special consideration.
144.300	144.315	Retains proposed stability requirements for an existing vessel with a stability document and added satisfactory service, operational tests, or a satisfactory stability assessment as standards for an existing vessel without a stability document; weight and moment history moved to § 144.315.
144.305	144.415	Contains stability requirements for new vessels; lifting requirements moved to § 144.310; weight and moment history moved to § 144.315
144.310	144.415(d)	New section for lifting requirements.
144.315	144.315(c), 144.415(e)	Weight and moment history requirements consolidated into one section.
144.320	144.320(a)	Revised to refer to both new and existing vessels; section title changed to also refer to weathertight integrity.
144.330	144.320	Revised section to provide OCMI authority to require review of a vessel's watertight or weathertight integrity. Proposed paragraphs (a)(1), (2), and (3) are deleted as repetitions of requirements in §§ 140.610(a) and (f) and § 143.270, respectively.
144.400	144.435(a)	Fire protection requirements applied to a new vessel, except § 144.415 which applies to each new and existing vessel.
144.405	144.435(a)	Section title taken from § 177.405(a) with the requirements unchanged from the proposed rule.
144.410	144.435(b)	Section title taken from § 177.405(c) with the requirements unchanged from the proposed rule.
144.415	144.350(a), 144.435(c), 142.220(c)	Section title taken from § 177.405(b) with the requirements in three proposed sections merged.
	144.435(d)	The provisions in proposed § 144.435(d) are covered in § 142.225, Storage of flammable or combustible products.
144.425	144.435(e)	Section title taken from § 177.405(f) with the requirements unchanged from the proposed rule.

TABLE 2—DERIVATION OF SECTIONS OF PART 144 FROM THE NPRM—Continued

Final rule section No.	NPRM Section No.(s)	Notes (if necessary)
144.430	144.435(f)	Section title taken from § 177.405(g) with the requirements unchanged from the proposed rule.
144.500	144.330(a), 144.330(e)	Requirements similar to § 177.500(a)
144.505	144.330(b)	Requirements similar to § 177.500(b) and (c)
144.510	144.330(c)	Requirements similar to § 177.500(n)
144.515	144.330(d)	Requirements similar to § 177.500(o)
144.600	144.360(a)	
144.605	144.360(c)	
144.610	144.360(b)	
144.700	144.355(b),(c)	
144.710	144.355(a)	
144.720	144.355(d)	
144.800	144.335	
144.810	144.340	Added hand grabs as an option to storm rails and removed requirement for storm rails on both sides of a passageway more than 6 feet wide.
144.820	144.345, 143.230	Proposed requirements for guards for exposed hazards in part 143 is merged with part 144 proposed requirement.
144.830	144.350(b)	Hot piping insulation requirement for an existing vessel is retained and a more specific requirement for a new vessel is based on § 177.970.
144.905	144.325, 144.425	Proposed requirements for operating station visibility for both existing and new vessels are merged.
144.920	144.430	Changed "porthole" to "portlight" to match our intent for this requirement. In practice, this change is a nonsubstantive clarification because the requirement is only relevant to portholes with portlights.

O. Miscellaneous Comments

In the NPRM we discussed comments submitted in response to seven questions we posed in a December 30, 2004, Inspection of Towing Vessels notice. Some commenters commented on those questions and that discussion. One person stated that uninspected towing vessels have been running efficiently for more than a century and that they have no problems that need to be addressed by a TSMS. In response to a discussion of grandfathering, another commenter stated that many existing towing vessels have operated in excess of 40 to 60 years without a major accident.

While towing vessels may be running efficiently, and many may not be involved in a major casualty, as we noted in the NPRM, towing vessel casualties continue to occur. Each year,[6] there is an average of 18 fatalities, 35 injuries, $66 million in property damages, and 446,000 gallons of oil spilled. Additional damages occur after towing vessel casualties in the form of delays from lock and waterway closures. A primary objective of this rulemaking is to reduce fatalities, injuries, property damaged, and oil spilled, by reducing the risk of towing vessel casualties.

Others who commented on our discussion of these questions from 2004 focused on specific subject areas intended to be addressed by our proposed regulatory text and the reasoning we provided in the preamble of the NPRM for that proposed text:

- *Machinery and Electrical:* A commenter noted that space constraints and crew abilities should be considered before requiring new equipment on small vessels.
- *Applicability:* Three commenters suggested that existing vessels should be "grandfathered" to minimize the expense and potential closing of businesses that will not be able to comply with new regulations. One commenter felt that few vessels other than those under 26 feet, or those used for commercial recreational vessel towing assistance, should be exempted from the regulation, and that fleeters should be exempted on a case-by-case basis.
- *Construction & Arrangement, Fire Protection, and TSMS:* One of those commenters would only apply grandfathering to equipment, hull construction and structural fire-protection requirements, but recommended that all vessels should comply with the proposed SMS rules within one year.
- *TSMS:* The same commenter suggested that using the ISM Code from 2002 as a guideline in developing the SMS requirements will allow for a number of operators using the AWO RCP to be compliant.
- *Fire Protection:* The commenter also felt that existing vessels should be treated differently from newly constructed vessels because of the likelihood that fire standards will make it difficult to retrofit existing vessels.

While these comments are not in direct response to the regulatory text we proposed, we have addressed these comments in the same section of the preamble where we discuss comments on the corresponding proposed regulatory text. For example, for a response to the comment regarding whether existing and new vessels should be treated differently ("grandfathered") with respect to fire protection standards, see the Fire Protection discussion of comments section.

A towing company requested that the Coast Guard consider issuing a supplemental NPRM so the public and industry will be able to review the revisions to the rule before it is final. A maritime company suggested that the Coast Guard urge towing companies to become familiar with tried and tested engineering guides and standards. The commenter also suggested that the Bridging Program remain functioning until all towing vessels are found to be compliant with the rule.

We disagree with this commenter about issuing a supplemental NPRM. This final rule reflects consideration of the thousands of comments we received on the NPRM we published in 2011.

Regarding urging towing companies to become familiar with tried and tested engineering guides and standards, we encourage towing companies to obtain knowledge from such guides and standards, but the purpose of this final rule is to establish specific requirements. This rule provides some flexibility (*e.g.,* the option to choose a

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[6] Casualty consequences are from MISLE for accidents from 2002–2007.

TSMS or Coast Guard inspection regime) but it is not a guidance document: it imposes requirements for which penalties may be applied if the requirements are not met. We have not made changes from the proposed rule based on this comment.

As for the Bridging Program, we are currently in Phase 2 of that program. During Phase 1, we conducted Industry Initiated Examinations for companies taking advantage of the opportunity to participate in this Coast Guard program. Phase 2 is focused on Risk-Based Targeted Examinations and is scheduled to continue until this final rule becomes effective. Phase 3 will commence with the implementation of the new subchapter M towing vessel inspection regulations and issuance of Certificates of Inspection (COIs).

A commenter suggested that towing vessel officers and officer candidates be tested on the new towing vessel inspections that appear in the final rule. The commenter said the Coast Guard provides only one opportunity to test the "professional knowledge" of candidates for Apprentice Mate/Steersman, Mate/Pilot, and Master of Towing Vessels, and that for years, it tolerated insufficient knowledge of existing regulations throughout the towing industry by licensed officers, management, and even Coast Guard personnel assigned to boarding parties. He noted that the Coast Guard's Towing Vessel "Bridging" program has done a commendable job trying to reverse this trend.

Before imposing training requirements on those credentialed under 46 CFR subchapter B, we would want to receive comments in a separate rulemaking on such proposed requirements. As for Coast Guard personnel conducting inspections under subchapter M, it is our normal process to draft a specific Performance Qualification Standard to ensure that inspectors are properly trained and fully capable of performing such inspections. Also in our oversight of TPOs, we will be sure to assess the TPO personnel's comprehension of subchapter M requirements.

One commenter felt that there is a lack of adequately trained lookouts and that providing the Master and Pilot with a trained, well-rested lookout can avoid many significant and costly towing accidents.

We agree that a trained, well-rested lookout would be more likely to help avoid towing accidents than a tired lookout who is not adequately trained. The rule does not contain specific training or hours of work requirements for lookouts, although such training and fatigue management may be part of a TSMS. We are considering developing a separate rulemaking for hours of service and crew endurance management based on our authority under 46 U.S.C. 8904(c). If we do so, we will publish a separate document in the **Federal Register**. We have made no changes from the proposed rule based on these comments.

Two commenters urged the Coast Guard to include a regulation that requires companies to provide mariners with a "letter of sea service" when the mariner is renewing their credentials.

We believe this suggestion is outside the scope of this rulemaking. We would want to receive comments on this suggestion in a separate rulemaking before imposing such a requirement.

An individual and an association felt that the "Bridging" book, updated with regulations from this final rule and other related regulations, should be provided in electronic format to provide a clear regulatory and policy statement to the towing industry and thereafter the Coast Guard should require the book or an updated electronic copy be carried aboard each towing vessel. One of these commenters noted that when the Coast Guard promulgated new oil pollution regulations in 1973, they provided an explanatory pamphlet and a required completion of an "open-book" test on the new regulations.

The Coast Guard notes that the Coast Guard's Bridging Program will cease to be applicable to towing vessels once this final rule becomes effective. We have prepared a Small Entities Guide which is available in the docket. With respect to an electronic form of subchapter M and other related regulations, we note that this final rule and subchapter M regulations that will become part of the CFR will be available through *www.gpo.gov/fdsys.*

An association commented on the need for vessel route restrictions on a COI to be done on a vessel-by-vessel basis based upon reasonable safety considerations, and the need for adequate sea anchors and ground tackle for towing vessels that service oceans and coastwise routes.

A Coast Guard OCMI will make vessel-specific determinations regarding a vessel's route and other operating conditions which will be identified in the vessel's COI. Towing vessels come in a variety of shapes, sizes, and services, some of which could utilize anchors and other ground tackle as appropriate. An anchor that is appropriate for the towing vessel would not necessarily be adequate to accommodate the tow. It is incumbent upon the towing vessel owner or managing operator to examine their operating conditions and decide if having an anchor and other ground tackle is appropriate.

Two commenters suggested that doubler plating is not acceptable as a longstanding repair policy and recommended that the use of doubler plating be prohibited in regulation for vessels that have been inspected, unless it is approved by a Commandant.

The Coast Guard has not adopted this recommendation. Second, since this comment was submitted, ASTM has issued a national consensus standard for the use of doubler plates as a permanent repair for vessels in all services. We have made no changes from the proposed rule based on these comments.

A commenter suggested that the NFPA standards referenced in the NPRM be updated to the current editions. This commenter also requested that we correct our references to NFPA 70, the National Electrical Code (NEC), which are listed incorrectly as "National Electric Code" in proposed §§ 136.110, 136.112, 143.120; 143.340(b)(6); 143.350(b); and Section II, Abbreviations.

The Coast Guard believes it is not necessary to update to the current editions of the NFPA standards at this time; in this final rule we have maintained the NFPA editions that we proposed in our NPRM. We have, however, corrected the error in our citations to NFPA 70, National Electrical Code (NEC).

A maritime company felt that the terminology used in the proposed rule is broad and could be interpreted differently depending on the reader. The commenter gave "major defects" and "substantial" as examples of items totally left up to the opinion of the individual auditor, and suggested that more precise terms be included to ensure consistency in the application of the regulations.

The Coast Guard notes that we did not use the term "major defects" in the NPRM. We did, however, use the term "major non-conformity," which we also defined. We also note that we have added or amended definitions based on many comments on our proposed rule.

In this final rule we do use the word "substantial," or a version of it, in our definition of "major conversion" in § 136.110 and in our revocation of TPO approval section, § 139.150. We agree that using more precise terms is appropriate when one is available, but sometimes a more flexible term is the only appropriate term to use. We believe this is true of our uses of the term "substantial" in this final rule and that the common understanding and definition of that term, combined with Coast Guard interpretation of that term in other regulations, does place restrictions on how individual auditors may interpret it. We have made no changes from the proposed rule based on this comment.

Lastly, a commenter suggested that the Coast Guard implement a notification system to remind vessel owners of deadlines that are approaching for their fleets.

The Coast Guard notes that it has a system that is currently used for other inspected vessels to provide owner and managing operators with notification of impending compliance deadlines and plans to use this same system for towing vessels inspected under this subchapter. However, owners and managing operators are still ultimately responsible for meeting these deadlines and the associated inspection requirements including notification of the cognizant OCMI as required in part 136.

P. Crew Endurance Management Systems (CEMS)

We thank those who commented in response to our Hours of Service (HOS) and CEMS preamble discussion in the NPRM (76 FR 49991–49997, Aug. 11, 2011). These comments have helped to inform our consideration of HOS and CEMS issues confronting the maritime community.

As we stated in the NPRM, the Coast Guard would later request public comment on specific hours-of-service or crew-endurance-management regulatory text if it seeks to implement such requirements. We are considering developing a separate rulemaking for HOS and CEM based on our authority under 46 U.S.C. 8904(c). If we do so, we will publish a separate document in the **Federal Register**.

We have summarized HOS and CEM comments below as a means of sharing the valuable input we received on this topic we discussed in the NPRM, but we have limited our responses because we are not proposing HOS or CEM requirements in this document. In general, we have only responded to these comments when we want to refer to what we said in the NPRM or point to currently available guidance or resources to address an issue raised. We have attempted to sort these comment summaries based on the questions we asked in the NPRM.

Some commenters wondered why, despite assembling sufficient data, the Coast Guard seeks additional information on potential requirements to increase uninterrupted sleep duration, while others described the Coast Guard's efforts to address hours of service as minimal and in need of revision. Another commenter said mariners resent the Coast Guard's failure to take a stand on maximum work hours and safe minimum manning requirements.

In the NPRM, the Coast Guard shared its views on potential HOS and CEMS program standards and requirements, and sought additional data and other information that we solicited through specific questions because, as we stated, we are "considering establishing hours of service standards and requirements for managing crew endurance, the ability for a crewmember to maintain performance within safety limits while enduring job-related physiological and psychological challenges." (76 FR 49991, Aug. 11, 2011.)

We received several comments suggesting that the traditional 2-watch system be replaced by a 3-watch system that provides more opportunity for increased uninterrupted sleep. One commenter said work durations should be reduced to a maximum of 21 days, with a phase-in of the 3-watch system within 10 years. Another commenter recommended that the Coast Guard develop a NVIC to provide one or more specific 2-watch rotation models that would meet the work hour limitations and minimum rest hour standards.

Several commenters noted that a "6-on, 6-off" schedule is unsafe or insufficient for allowing adequate rest. One commenter said an "8-hour on, 4-hour off; then 4-hour on, 8-hour off" schedule would achieve the maximum hours of rest while maintaining the current amount of crew. However, another commenter said an "8:8:4:4" schedule may allow for less total sleep over 24 hours than a "6:6:6:6" schedule.

We received several comments referencing crew manning with respect to potential work hour requirements. Some commenters said any towing vessel operating over 12 hours in any 24-hour period should be manned with two full crews, not just with two licensed officers. One commenter recommended a safe manning level that would support a 3-watch system for vessels towing laden tank barges containing oil or hazardous material in bulk. Another commenter stated that the Coast Guard should require a relief pilot or three pilots onboard vessels (captain, after watch pilot, and swing pilot). Several commenters noted that crews are increasingly undertaking administrative duties, which can impact appropriate manning and mariners' opportunity for rest.

An element of a CEMS that might improve the awareness of the lack of opportunity for crew members to obtain adequate sleep would be to keep a record of each crew members' work and rest schedule. We note that NVIC 02–08, Enclosure (4), provides a CEM program evaluator checklist to capture areas that need improvement and ways to go about addressing those areas. Page 4 of Enclosure (4) provides an example of how a crew member might analyze their current work/rest schedule to identify any associated risks involving fatigue.

Several commenters suggested regulations that limit the workday to 12 hours in a 24-hour period for all mariners. One commenter said the NPRM should mandate maximum work-hour limitation for unlicensed personnel and maximum allowable work days and rotations.

We received numerous other comments. One commenter said that without clear and enforced work-hour regulations and independent third-party inspections, towing boat companies will continue to exploit crews who are eager to remain employed.

One commenter urged the Coast Guard to promulgate HOS regulations consistent with NTSB Safety Recommendation M–99–1. A maritime company recommended minimum hours of rest similar to those set forth in the latest STCW (Manila) amendments (STCW 2010, Chapter VIII, Section A–VIII/1).

One association noted that the Coast Guard should have decided this issue ever since that association first presented it in May 2000 in National Mariners Association Report #R–201 titled "Mariners Speak Out on Violations of the 12-Hour Work Day."

We received several comments supporting the implementation of an HOS rule that would allow for sufficient time off to obtain at least 8 uninterrupted hours of sleep, or at least 7 hours of uninterrupted sleep and an additional sleep period in every 24 hour period. However, some commenters said the current statutory requirements in 46 U.S.C. 8104(g) are sufficient.

Several commenters opposed a requirement for a minimum of 7 to 8 hours of uninterrupted sleep for personnel on towing vessels. A maritime company responded that requirements should consist of a minimum of one 6-hour period of uninterrupted rest within a 24-hour period and a minimum of 10 hours per day of total rest. Two commenters stated that the NPRM's focus on a minimum of 8 hours of uninterrupted sleep fails to acknowledge that a long sleep period in conjunction with a nap of shorter duration during a 24-hour period do not result in a compromised mental and physical state. Similarly, a commenter said it is not the number of uninterrupted hours of sleep per day that is important for performance and maintenance of alertness, but rather the total hours of sleep per 24 hours. Also, the commenter said data indicates that shift workers who work 8 hours and have 16 hours off to sleep only obtain 5 to 6 hours of sleep when sleep occurs at the "wrong" circadian time.

We received one comment saying the best method is to allow for anchor sleep to occur during one sleep opportunity and a nap sleep to occur during the second sleep opportunity. A maritime company responded that a Safe Manning Document, with prescribed watch requirements taking into account the vessels route and service requirements, would be the best way to ensure that sufficient qualified personnel are available for 12 hours of work per day.

A maritime company responded that the direct financial impact on its company would be minimal, as most of its vessels are already manned to allow for 7 or 8 hours of uninterrupted sleep (three in each department). However, the commenter noted that the company would lose some level of oversight and daily productivity in performing, for example, inspections and maintenance.

One commenter stated that sufficient uninterrupted sleep for vessel crew is the best insurance a vessel owner or managing operator can have against casualties. A maritime company stated that there would be a benefit to managing work periods in relation to safety, but setting a minimum number of consecutive hours without changing the 12-hour work period may make it difficult to manage vessel operations in a 24-hour period.

One commenter responded that allowing crews a 7- to 8-hour sleep opportunity does not mean crewmembers will routinely obtain 7 to 8 hours of uninterrupted sleep because it is impossible to mandate sleep.

We agree that a mandate to provide an opportunity for a sufficient number of hours of uninterrupted sleep will not guarantee that crewmembers sleep for the desired number of hours. But as we suggested in the NPRM, providing the opportunity "to increase uninterrupted sleep duration to a threshold of at least 7 consecutive hours in one of the two available off periods in the two-watch system [would] increase the probability that crewmembers will have the opportunity to restore the cognitive abilities necessary to maintain situational awareness, even if the sleep environment is not optimal." 76 FR 49996, Aug. 11, 2011. As noted above, log-keeping could be an effective way to gauge work and rest schedules throughout daily onboard operations.

A maritime company responded that while 7 hours of sleep is ideal, this does not work well in a 12-hour work schedule, and is still controversial even within the pioneering companies that initially implemented and tested the CEMS practices. The commenter concluded that the CEM training teaches that this—getting 7 hours of sleep—is the last and one of the least important facets of the program.

Another maritime company responded that, when given a 7- to 8-hour sleep opportunity, mariners cannot obtain 7–8 hours of uninterrupted sleep. Thus, it is common in the towing vessel industry to allow for two sleep opportunities where each opportunity allows for significant sleep such as on a "6:6:6:6" square watch schedule.

We received many comments, mostly from maritime companies, opposing a potential requirement for a minimum of 7 to 8 hours of uninterrupted sleep for personnel on towing vessels because no current watchstanding system meets this standard. Several commenters, including maritime companies, said the "6 on/6 off" watch schedule has worked for many years and should not be altered. A maritime company responded that the traditional "6 on/6 off" watch schedules would have to be changed to a "5/7/7/5," or" 4/8/8/4," and a "12/12" schedule may even need to be worked depending on vessel operations. Another commenter expressed concern about the difficulty that operators would have in finding experienced personnel to meet the proposed watch standing standards.

One commenter responded that it is impossible to mandate that mariners "obtain a required number of hours of uninterrupted sleep, such as 7–8 hours." Instead, what is needed is to change mariner culture such that sufficient sleep is understood to be important for optimal performance, safety, and health.

A maritime company said a mandate would undoubtedly change the entire operation onboard, including meal hours, voyage planning, etc.

Another maritime company responded that a mandate that required mariners to obtain 7 to 8 hours of uninterrupted sleep would require the use of pharmacological agents or behavioral therapies (*e.g.*, exercise, sleep hygiene, cognitive behavioral therapy for insomnia) that would enable mariners to achieve the mandated hours of uninterrupted sleep.

One commenter noted that many factors, including electronic gadgets, noise in the berthing spaces, and dietary considerations can have an adverse impact on a mariner's ability to obtain adequate sleep.

We received one comment that said requiring 7 to 8 hours of uninterrupted sleep would require one-third more crewmembers than the company presently can accommodate on board.

One commenter stated that recent data on sleep make it unlikely that crews on a "7:7:5:5" or an "8:8:4:4" watch schedule could obtain close to 7 or 8 hours of sleep, even when the endogenous drive to sleep coincided with a 7- or 8-hour rest period.

Two commenters said focus on nutrition and hydration has helped employees, but the companies have not changed watch schedules. Two other commenters responded that they have implemented CEMS, but one noted that it does not require that mariners receive 7 to 8 hours of uninterrupted sleep.

An association and another commenter said a CEMS program alone cannot account for the fatigue caused by the existing 2-watch system on vessels in 24-hour service. The commenters stated that many mariners are unwilling to adjust their lives to fulfill the requirements of the system, and employers who force the program upon their mariners will encounter resentment and retention problems.

A maritime company responded that if a CEMS program enabled crews to obtain 7 to 8 hours of total sleep over a 24-hour period, such a program could be effective in combating fatigue. Another maritime company responded that any operation can benefit from CEM practices absent of work/rest changes. Diet, exercise, and environmental factors are all critical to improving operations and reducing fatigue.

Another maritime company responded that there is no evidence HOS restrictions reduce casualties and injuries, although this may be possible if crews can achieve 7 to 8 hours of total sleep on a day-to-day basis.

A maritime company commented that no existing programs could be considered equivalent to the Coast Guard CEMS program. The alternative would be a traditional ship "4/8" watch schedule, which would require manning increases for most companies.

One commenter responded that, yes, a mandate would cause burden to smaller companies with limited resources. Another commenter said requiring a crew management program would increase the already large financial burden of implementing these proposed regulations on mid-sized and smaller companies, as well as an increased cost to the end consumer due to the necessity of larger crews.

A maritime company responded that for a full CEMS program, a 4- to 5-year period would be appropriate to allow for training, implementation, and auditing. Another maritime company responded that there is no appropriate phase-in period or method until evidence is provided that implementation of a new HOS requirement is effective.

In their comment to the docket (USCG–2006–24412–0187), the National Transportation Safety Board indicated they were pleased with the comprehensiveness, relevance, and timeliness of the literature that the Coast Guard cited in the NPRM, and believes that this literature aptly summarizes the state-of-the-art of human factors and physiological research on the effects of fatigue on human performance. The commenter went on to cite several maritime and transportation accidents in which operator fatigue was identified as a contributing factor.

A maritime company noted that Coast Guard cites the Fatigue Avoidance Scheduling Tool (FAST) algorithm and produces nine figures (Figs 2–10) for assessing the effects of work and rest schedules on human health and performance, but there is no evidence in the FAST model that mariners will be able to obtain 7 to 8 hours of uninterrupted sleep on a "7:7:5:5" or "8:8:4:4" rectangular watch. Another maritime company disagreed with scientific studies that have indicated that uninterrupted sleep of less than 8 hours gives a worker a response time equivalent to someone with blood alcohol content of 0.05–0.08. Other commenters recommended a study on sleep requirements strictly related to inland waterways vessels.

We received a few comments supporting the structure of a CEMS program, and stating that before work hours or watchstanding practices are changed, a program including crew physical wellness and fatigue education and training must be put into place. One commenter supported additional training for crew members in the area of crew member fatigue and work and rest periods.

There are currently several opportunities to learn more about CEMS and mariner fatigue. We recommend talking with your company safety officer for training options, or visit *http://www.uscg.mil/hq/cg5/cg5211/cems.asp* for more information on CEM.

One commenter said the concept of crew endurance is in effect a "Band-Aid" for a system that is broken, and that the Coast Guard has objective scientific evidence to take clear and definitive actions for establishing maximum work-hour limitations.

We received several comments stating that the Coast Guard's emphasis on uninterrupted sleep differs from the description of CEMS in NVIC 02–08, Criteria for Evaluating the Effectiveness of Crew Endurance Management System Implementation. Further, the commenters said NPRM's emphasis on 7 to 8 hours of uninterrupted sleep is troubling not only because of its inconsistency with prior Coast Guard publications describing the purpose of CEMS, but more importantly because it reflects an incomplete and selective treatment of the science behind sleep and watchstanding.

As discussed in NVIC 02–08, components of a CEMS that improve the safety culture and sleep quality include education, environmental changes, light management, trained coaches, and schedule changes. As indicated in Enclosure (4) of NVIC 02–08, a crew's watch schedule should be evaluated based on the opportunity for each member to achieve a sufficient amount of uninterrupted sleep.

A maritime company stated that the CEMS demonstration project did not provide any data to support any changes in HOS or any endurance management standards.

We received several comments complaining about the Coast Guard's inaction regarding HOS and crew endurance. However, many commenters, mostly maritime companies, said the towing vessel inspection rule is not the proper place for requirements regarding fatigue management, which has implications for the entire maritime industry and that it would be more appropriate to address the issues raised in the NPRM relating to periods of rest and watchstanding in a separate rulemaking project particularly as it pertains to the marine industry as a whole. One commenter said any additional CEMS requirements should be identified in a company's TSMS and not in regulation.

Several commenters said emphasis on minimum required hours of sleep is not justified by science or data. One commenter said the NPRM is confusing and lead a reader and, more importantly, an inspector to draw the wrong conclusions about how a vessel watch should be set up. A maritime company said there is a need for literature that explores anchor sleep/nap sleep strategies; compares sleep times on different watch schedules where the total amount of sleep and work opportunities are equivalent; evaluates the effectiveness of educational programs to change the culture of crews on board towing vessels; documents why mariners do not obtain 7 to 8 hours of sleep per 24 hours; and evaluates effective strategies for the treatment of sleep disorders.

One commenter said any requirement for hours of service standards and crew endurance management requirements should apply to double-crewed overnight boats and should not apply to "dinner bucket" or harbor boats.

We received two comments stating that the Coast Guard should withdraw its proposal until the following issues are addressed: current abuses of existing hours-of-service regulations for towing vessel officers; the lack of any hours-of service regulations for deckhands, engineers and unlicensed crewmembers; fatigue resulting from these abuses; and the undermanning of towing vessels as previously documented.

Another commenter said the NPRM included no mention of previous recommendations made by the Towing Safety Advisory Committee (TSAC) on CEMS and seeks comment on a different approach that was not previously brought to TSAC's attention.

We received several comments stating that the CEMS research being conducted by Northwestern University on inland towing vessels should influence the Coast Guard's direction on watchstanding and CEMS.

Q. Economic Analysis Comments

The Coast Guard received numerous comments from organizations and individuals regarding the costs and benefits associated with our proposed subchapter M regulations.

When we published the NPRM in 2011, we were particularly interested in the economic impact of implementing a TSMS, and whether there were alternatives to the TSMS and Coast Guard inspection options that could provide similar benefits at a lower cost.

Many commenters provided details and opinions regarding the costs and benefits of implementing the new subchapter M requirements. The comments involved the overall and specific costs and benefits of the requirements, the economic impact on small entities, and the requests for flexibilities that could provide relief to towing vessel owners and operators. We appreciate these comments and have attempted to integrate them into our Regulatory Analysis (RA). We address the specific topics in the sections of this preamble below.

1. Costs

We received numerous comments from towing vessel industry stakeholders regarding the specific costs of subchapter M parts as well as general remarks on overall costs of the new requirements. Many commenters expressed concern over subchapter M requirements imposing undue costs on vessel owners and operators without providing any information or further discussion.

One commenter stated the cost of hiring a naval architect for stability calculations would be in the tens of thousands of dollars per vessel to comply with construction and arrangement standards, and verification of compliance with those requirements.

As noted above in section IVI.N, the Coast Guard has added additional options for verification of compliance with part 144. Section 144.300(b) now offers three options for an existing vessel without a stability document to meet part 144 requirements: findings based on the vessel's operation or a history of satisfactory service, successful performance on operational tests, or a satisfactory stability assessment. None of these options would cost this operator tens of thousands of dollars. For example, the findings based on the vessel's operation or history of satisfactory service is a documentation activity that the Coast Guard estimates will require 4 hours of time to compile at a cost of approximately $200. Operational tests are undertaken as part of a standard inspection if needed at no additional cost to the operator.

The commenter also believed that additional equipment and redundancy systems—specifically propulsion, steering and related controls, electrical installations, pilothouse alerter system and towing machinery—required by part 143 are unnecessary.

As discussed earlier, part 143 no longer requires redundancy propulsion or steering for existing vessels, and has eliminated deferred electrical requirements in proposed §§ 143.340 through 143.360 for existing vessels. This final rule does retain a pilothouse alerter system requirement for towing vessels with overnight accommodations and alternating watches (shift work), but we have limited this requirement to towing vessels more than 65 feet in length. We also retained a requirement for towing machinery (*e.g.*, capstans and winches) to be designed and installed to maximize control of the tow. Both the pilothouse alerter system and towing machinery requirements have a delayed implementation period for existing vessels: 5 years after the issuance of the first COI for the vessel. For a more detailed discussion of these two requirements, please see section IV.M above.

One commenter stated that the Coast Guard estimated that bringing a single towing vessel into compliance with general requirements for propulsion, steering, and related controls, which appeared in § 143.405 in the NPRM, would cost $20,000 and said that his company spent $200,000 to replace steering and propulsion systems of a single vessel. The commenter estimated that to bring his company's 130 vessels into compliance under subchapter M, they would need to spend millions of dollars. The commenter also said that several thousand towing vessels would be affected, as opposed to the Coast Guard estimate of 26 towing vessels being affected by the § 143.405 requirements.

As discussed earlier, the Coast Guard acknowledges the potential for higher costs to retrofit existing vessels. In this final rule, the relevant requirements have been moved to § 143.585 and the applicability of these requirements has been reduced to only apply to new vessels (estimated at 88 per year) or those undergoing a major conversion (estimated at 13 per year) that move tank barges carrying oil or hazardous materials in bulk. We estimate the incremental cost to comply with § 143.585 during the design and construction stage for new vessels or those undergoing major conversion to be $10,000 per vessel.

Another commenter, referencing the previous commenter's remarks, estimated that company would incur a cost of $40 million to comply with subchapter M. This commenter also suggested that subchapter M costs will be passed along to all the consumers in the U.S. economy thereby putting the U.S. economy at a disadvantage compared to other world economies.

The Coast Guard has considered the potential cost impact on individual companies and the economy in formulating the final rule. We balanced costs against the beneficial impacts of the rule in reducing the risk of towing vessel accidents and the resulting consequences, including fatalities, injuries, and oil spills. Based on information provided in the comments from the public on the costs of some requirements, we have revised the applicability of some those requirements to only newly constructed or refurbished vessels to mitigate the need for costly retrofits of existing vessels. We have also added alternative compliance options, such as allowing service history in lieu of stability tests for some vessels. We believe the resulting final rule fulfills Congress' mandate to bring towing vessels under an inspection system to ensure and improve safety, while minimizing costs and potential impacts on the U.S. economy.

Another commenter expressed concern about the cost of the rule to vessel owners and operators and stated that the annual user fee could be "in the $1,000 to $2,000 range" for each vessel. The annual fee for towing vessels inspected under subchapter M will be $1,030. As we note in section IV.D above, this is the existing annual inspection fee in 46 CFR 2.10–101 for any inspected vessel not listed in Table 2.10–101. This will be charged starting a year after the initial COI is issued and will remain the annual inspection fee until a specific annual inspection fee for towing vessels is promulgated through a separate rulemaking.

The same commenter also estimated that the negative impact on the economy, of (river-canal) lock delays due to towing vessel accidents, is only $13.89 million of annual economic impact and 0.13 percent of total downtime, compared to an estimated total negative economic impact of $10.8 trillion for all downtime on the lock.

The Coast Guard acknowledges that lock delays from towing accidents may only make up a small fraction of total lock delays. However, that does not negate the benefit that could be realized through the rule by improving towing vessel safety, and reducing accidents and the resulting delays. Analyzing all causes of lock delays and methods for mitigating those delays not related to towing vessel accidents is outside the scope of this rulemaking.

One commenter submitted a number of comments on the additional operational costs due to subchapter M requirements that included the impact of periodic drydocking which may leave the work force idle, additional recordkeeping-staff requirements, the limited supply of shipyards which may increase the amount of time needed for repairs and drydocking, and increases in lending rates for marine loans from financial institutions due to actual or perceived risks.

With respect the impact of drydocking, according to a 2013 report, "For smaller vessels, routine drydocking can be done in the course of a single day." [7] The Coast Guard assumes 2 days of for each drydock inspection and has added an estimate of potential lost revenues during that period. Drydocking can be scheduled in advance with shipyards to coincide with rest requirements of crew, minimizing the potential for workforce idleness or longer waits times.

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[7] "Study of Engineering and Naval Architecture Costs for Use in Regulatory Analysis", 17 April 2013 by ABS Consulting, page 30.

The provisions of the rule are intended to improve safety of towing vessel operations, which over time should reduce actual risks.

One commenter asked for more detail on how the Coast Guard estimated the annual government costs at $1.4 million. He interpreted this figure as a need to hire 14 new full time employees.

Coast Guard man-hours are calculated based on assuming only a few hours per vessel, although it might amount to a large number of hours considering that the affected population is more than 5,500 towing vessels. The Coast Guard is flexible with respect to meeting resource needs and may not hire new full time employees to implement the new subchapter M program.

Several commenters stated that the preliminary RA underestimated the various costs of subchapter M. In particular, one commenter believed that for existing vessels cost in man-hours needed to develop vessel plans is much higher than the estimate presented in the RA. The commenter estimated that cost of plan development alone will be as high as $80,000, as opposed to the Coast Guard estimate of $20,000. In addition to these costs, the commenter included an estimate of up to $30,000 for stability review, and $100,000 to verify vessel compliance with requirements in parts 140 through 144.

The Coast Guard acknowledges the potential for higher costs for plan development and stability review. As a result, this final rule does not require an existing vessel to undergo a verification of compliance with design standards, so there is no plan development cost for an existing vessel unless that vessel either undergoes a major conversion or involves a new installation that is not a replacement-in-kind. In the case of a major conversion, the plans and documentation needed would be directly related to the scope of the conversion. In the case of an installation that is not a replacement-in-kind, the plans needed would be limited to the scope of the installation and to prove that the vessel meets stability standards. Moreover, the documentation required is not restricted to traditional drawings; sketches, schematics, diagrams, specifications, and photographs can be used to the degree needed to ensure the vessel complies with the standards used.

The same commenter suggested an alternative approach to these plans that they estimated would cost no more than $30,000 per vessel: Having a P.E. conduct a ship check to approve hull structure, piping, electrical machinery systems and stability test by using in-house sketches and reviewing vessel structure and systems. The total costs of the program suggested by this commenter ranged from $150,000 to $180,000 when added to the other vessel plan costs. The Coast Guard views the suggested alternative approach to be similar to the surveys required under the TSMS option and, therefore, to be redundant. Further, the alternative approach suggested is not really an alternative since sketches, photographs, and similar documents are included in the group of sufficient documents needed for review in the case of either a major conversion or a new installation that is not a replacement-in-kind on an existing vessel.

Another commenter estimated that the cost of retrofitting an existing towing vessel to comply with subchapter M ranges from $180,000 to $300,000. This commenter also pointed out the additional cost of a TSMS, which he noted we estimated to be from $61,000 to $150,000 per company. The commenter added that none of these estimates accounts for the economic impact of time spent out of service while a vessel is being retrofitted.

The Coast Guard acknowledges that the costs to retrofit vessels to meet certain proposed requirement may have been higher than estimated in the NPRM. As a result of these higher costs, the Coast Guard has removed those requirements for existing vessels, although the requirements are retained for new vessels as the incremental costs for a new vessel are lower. Removing certain requirements for existing vessels in Part 143 has the potential to reduce most, or perhaps all, of the $180,000 to $300,000 costs noted in the comment. With regards to the TSMS costs, the rule provides the Coast Guard inspection option as an alternative if developing and implementing a TSMS is deemed too costly by a vessel owner. In response to this and other comments, the Coast Guard has included an estimate of lost revenue in the Regulatory Analysis for the final rule for drydock inspections and activities to correct deficiencies that exceed 1 day in duration. We have made certain requirements no longer apply to existing vessels and has made many other changes to address that concern, as discussed in previous sections.

One commenter stated that subchapter M would require his company to change electrical systems on existing vessels at a cost of more than $75,000 per vessel, and would potentially cost the company $2,700,000 to comply.

While the Coast Guard finds it unlikely that it would cost over $75,000 to bring a vessel in active service under normal engineering practice into compliance with subchapter M, the Coast Guard acknowledges that some of the requirements proposed for electrical systems that required retrofitting of existing towing vessels could result in higher costs. In this final rule, we have made many of those requirements only applicable to new vessels. For more details, see discussion of electrical systems in section IV.M above.

One commenter estimated his company's average compliance cost to be $225,000 per vessel or $3.375 million for his entire fleet. A second commenter, relying on an AWO figure, estimates the cost of the proposed requirements to be as much as $100,000 per towing vessel. A third commenter, representing a group of offshore towing vessel owners and operators, quoted previous comments on compliance costs and provided an average cost of $180,000 to $300,000 per vessel.

The Coast Guard appreciates the information from commenters on the potential costs of the proposed requirements in the NPRM. Given the potential for higher cost impacts, we have re-evaluated the requirements in the proposal to identify opportunities to minimize costs while still achieving risk reduction. As described previously, we have provided opportunities for lower-cost compliance options for some requirements and changed the applicability of some requirements so that existing vessels would not have to undergo costly retrofits. The Coast Guard estimates that the average cost of compliance per vessel during the phase-in period is $16,267 with an additional $5,045 cost per company. The deficiency data from the Bridging Program and towing vessel boardings, which represents over 99 percent of the towing vessel fleet, indicates that many deficiencies are relatively rare (5 percent or less of vessels), making it unlikely that a vessel would incur the cost of every regulatory requirement.

Finally, other commenters stated that there are many hidden or unaccounted-for costs that the Coast Guard did not incorporate into its preliminary RA. These hidden costs are the same costs mentioned by a previous commenter: Lost revenues and wages due to periodic inspections and repairs (including travel to inspection locations), crew costs to prepare for the inspection and undergo the questioning during the audit or survey, and management costs to oversee the TSMS and inspection scheduling.

Based on these and other comments, the Coast Guard acknowledges that potential for lost revenue and has added an estimate of lost revenues for drydocking and certain repairs (please see Section 2.5 of the Regulatory Analysis for details).

With respect to costs to prepare for and undergo inspections, the Coast Guard estimates 40 hours of time to prepare for and undergo an inspection, which could be accomplished by the owner, operator, crew, or a combination. We have used the owner or operator wage rate to value the opportunity cost, which would be a slight over-estimate if crew instead performed the activities, which includes scheduling the inspections.

With regard to management costs to oversee a TSMS, the NPRM regulatory analysis provided an overall cost estimate for a TSMS that included management costs. For the final rule, the Coast Guard does not expect management costs for a TSMS to be incrementally different than management costs for an existing Safety Management System.

Additionally, one commenter believed that the preliminary RA did not account for increased shipping rates and transportation costs for industries dependent on river transportation.

The Coast Guard has added an evaluation of the potential for increased shipping rates and transportation costs in Appendix J of the Regulatory Analysis. The average cost per vessel of the final rule on a daily basis represents an increase of 0.7 percent to 2.75% of barge daily operating costs, exclusive of fuel costs. The ability of towing vessel owners to pass along these cost increases to shippers will depend on many factors that make up the elasticity of demand, which will vary depending on the cargo, route, and transportation alternatives available. Towing vessels and barges typically carry commodities in bulk, including coal, petroleum, crude materials (such as forest products, sand, gravel, ores, scrap, and salt), and food and farm products (Figure J–1). The analysis of the impact of the increase in towing vessel daily operating costs on the shippers will be different for each commodity and route. An analysis of shipping rates for grain indicates that barge shipping rates are volatile, sometimes doubling from one year to the next, reacting quickly to sudden changes in export demand, weather constraints on the rivers, or larger-than-expected crops. The final rule requirements are expected to represent average increases in operating costs of 0.7 to 2.75 percent, only a small fraction of normal variability in rate. The market and shippers have adapted to fluctuations in shipping rates, so that increases of the size that may result from the final rule are within normal variations.

Further, the amount of increase in costs will vary from company to company. For example, many companies already have a TSMS, so this regulation would have a lesser impact on those companies cost structure than those companies that don't have one. The final rule brings all towing companies up to a minimum standard of safety and erodes the competitive advantages of those companies underinvesting in safety measures. By reducing accidents, incidents and casualties and resulting impacts including delays, the final rule may also increase the dependability and timeliness of shipping by barge and perhaps mitigate some limited aspects of the volatility of rates.

2. Benefits

We received many comments in support of the proposed rule. Many commenters said that SMSs are cost-beneficial and might lead to quantifiable benefits. Commenters suggested that SMSs might lead to benefits such as fewer vessel accidents and personal injuries, which would mean cost savings from reduced insurance premiums and avoidance of expenses such as vessel repairs and time out of service. However, no commenter provided any data or analysis that would directly quantify or monetize such benefits.

Numerous commenters, while agreeing with the proposed requirements in principle, expressed a concern that the costs of complying with subchapter M would exceed the benefits and should be either avoided altogether or mitigated by following a risk-based approach. The majority of these commenters felt that benefits should be justified by each towing vessel's individual casualty history and risk. For example, a vessel that has not been involved in any accident but is not compliant with some or all of the requirements of subchapter M should not be considered a risk to the maritime industry and should be granted exemption or grandfathered from some or all of subchapter M requirements.

The Coast Guard agrees in part. The regulatory impact analysis we provide in the docket discusses at length why and how owners and operators of regulated entities will benefit from the requirements of the final rule. The fact that no incident has occurred yet on a particular vessel, especially one that does not comply with the requirements of the final rule, does not mean that the vessel does not present any risk to the maritime industry. In the next comment section, we addressed requests to obtain relief from certain costs commenters deemed unnecessary and will point to accomodations and flexibilities this final rule provides.

3. Flexibilities To Provide Relief to Towing Vessel Owners and Operators

We received numerous comments from the towing vessel owners and operators requesting greater flexibility in the rule to reduce its costs to them. They varied from full exemption from all subchapter M regulations to grandfathering on specific requirements. These comments are addressed in this section.

One commenter requested that the Coast Guard grant his company either an exemption from all requirements of subchapter M or an extension of 20 years of grandfathering on existing equipment on board his towing vessels. Another commenter requested some form of grandfather clause for existing fleets from proposed §§ 143.340 through 143.360 electrical system requirements citing complete rewiring costs at $150,000 to $210,000 for each vessel. Similarly, one commenter, without being specific, suggested that many requirements relating to mechanical and electrical equipment and structural standards for small operators should be relaxed or eliminated. Also, the AWO recommended that the Coast Guard delete sections on electrical system requirements in the final rule. Another commenter argued that subchapter M regulations are unnecessary and asked for an exemption or extension for longtime existing companies that have always operated in full compliance with existing regulations because these new regulations may force them out of business.

The Coast Guard believes it inappropriate to grant an exemption from all new requirements under subchapter M or grandfathering of 20 years for existing equipment. However, the Coast Guard agrees that some of the requirements for machinery and electrical systems in part 143 may have been too burdensome and were unnecessary for existing vessels, so they have been removed from this final rule.

One commenter suggested that coal and grain barge handlers, which are generally small businesses, should not have the same TSMS requirements as larger companies. Another commenter asked Coast Guard to provide a template for a scaled-down version of a TSMS that might be less overwhelming for small towing vessel operations. A third commenter suggested that small operators should not be required to implement and maintain certain parts of the TSMS, such as the Behavioral-Based Safety program.

In the final rule, TSMS requirements are neither modified for different classes of towing vessels nor scaled down or exempted for small towing vessel operators. However, as previously noted, the TSMS is scalable. It can be tailored to the operation of a small company and simplified to address a limited set of assets, process, and personnel. For a small business operator with a fleet of one or two vessels the TSMS may be a short document. Further, owners and operators can choose the Coast Guard inspection option.

Behavior-based safety has been described as an approach that focuses on what people do, analyzes why people take these actions, and then applies a research-supported intervention strategy to obtain a more desired outcome. (Geller, E. Scott, 2004). Subchapter M does not specifically prescribe the use of behavior-based safety to address specific elements of the TSMS, however some companies have chosen to use this approach to help modify employees behaviors to enhance safety within their organization.

We do not believe a template is needed to comply with TSMS requirements. As discussed in previous sections, we have clarified TSMS requirements in this rule and we intend to issue guidance documents related to TSMSs and TPOs as necessary, and these guides may contain examples of such documents.

One commenter stated that the TSMS should be the only approved method (to obtain a Certificate of Inspection) under the final rule and recommended that the Coast Guard option be removed because a TSMS is scalable and can be developed in a cost-effective manner that many small companies can adapt to.

The Coast Guard disagrees that the TSMS should be mandatory. Although we recognize that the TSMS is scalable and can be developed in a cost-conducive manner, some towing companies may lack the resources or expertise to develop and implement a TSMS. The Coast Guard inspection option is intended to provide greater regulatory flexibility to such companies, or any that may not want to use a TSMS for other reasons. As noted above in section IV.B, offering this option is consistent with one of ABSG Consulting's recommendations in its 2006 final report to the Coast Guard. See docket submission USCG–2006–24412–0017.

4. Small Business Impacts

We received several comments from small business owners and operators on the economic impact of subchapter M requirements. Some were opposed to the new requirements, but did not provide specific information or data about how they would be impacted. Others requested either an exemption or grandfathering from some or all of the requirements, so that they could avoid or mitigate the economic impacts and continue to serve the towing vessel industry. A discussion of comments received on small business impacts follows.

Many commenters felt that subchapter M requirements would hurt small business owners and their employees and could put many small entities out of business. However, they did not provide specific data as to how much of an economic burden they expected the new requirements to place on their operational costs. The most specific comment was that new recordkeeping requirements alone would mean that the owner or operator would have to hire one or more new full time workers. Other commenters estimated the overall costs of subchapter M requirements in a range of $100,000 to $250,000 per vessel and several million dollars per company.

Other commenters expressed concern that their companies would not be able to pay for these unspecified subchapter M requirements, and therefore, either be forced out of business or be acquired by larger entities in the towing vessel industry. One commenter argued that lenders will delay lending and review existing ship mortgages to reassess their collateral positions, because many owners and operators of small towing vessel fleets will not be able to afford the costs to comply with subchapter M requirements. Another commenter stated that his company would lose the ability to borrow against their boats if they cannot comply with the new regulations. One commenter estimated that no less than 20 percent of the aggregate U.S. towing fleet would be put out of business if the NPRM, as written, is published as a final rule. However, these commenters did not provide specific data or information to support their concerns.

The Coast Guard appreciates these comments on the potential economic impact of the proposed rule on small businesses. Based on these comments and other comments on the range of compliance costs, we have re-evaluated the requirements in the proposal to identify opportunities to minimize impacts on small businesses while still achieving risk reduction. As described previously, we have provided opportunities for lower-cost compliance options for some requirements and changed the applicability of some requirements so that existing vessels would not have to undergo costly retrofits. The Coast Guard estimates that the average cost of compliance per vessel during the phase-in period is $16,267, with an additional $5,045 cost per company. The deficiency data from the Bridging Program and towing vessel boardings (which represents over 99 percent of the towing vessel fleet) indicates that many deficiencies are relatively rare (5 percent or less of vessels), making it unlikely that a vessel would incur the cost of every regulatory requirement.

V. Regulatory Analyses

We developed this final rule after considering numerous statutes and executive orders related to rulemaking. Below, we summarize our analyses based on these statutes or executive orders.

A. Regulatory Planning and Review

E.O.s 12866 ("Regulatory Planning and Review") and 13563 ("Improving Regulation and Regulatory Review") direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This final rule is a significant regulatory action under section 3(f) of E.O. 12866. The Office of Management and Budget (OMB) has reviewed it under that Order. It requires an assessment of potential costs and benefits under section 6(a)(3) of E.O. 12866. A final assessment is available in the docket, and a summary follows.

A Final Regulatory Analysis (RA) is available in the docket where indicated under the "Public Participation and Request for Comments" section of this preamble. A summary of the RA follows:

This rulemaking implements section 415 of the Coast Guard and Maritime Transportation Act of 2004. The intent of the final rule is to promote safer work practices and reduce casualties on towing vessels by ensuring that inspected towing vessels adhere to prescribed safety standards and adopted safety management systems. The Coast Guard recognizes that establishing minimum standards for the towing vessel industry is necessary. Vessel operation, maintenance, and design must ensure the safe conduct of towing vessels. The final rule improves the safety and efficiency of the towing vessel industry.

In this final rule, the Coast Guard requires towing vessels subject to this rulemaking to undergo annual Coast Guard inspections or, in the alternative, be part of a safety management system. If the safety management system option is chosen, the rule requires companies that operate inspected towing vessels to create a TSMS, continue with existing systems that comply with the provisions of the International Safety Management (ISM) Code, or continue under another system the Coast Guard determines to be equivalent to the TSMS.

This final rule would allow each towing vessel organization to customize its approach to meeting the requirements of the regulations, while it provides continuous oversight using audits, surveys, inspections, and reviews of safety data. This would improve the safety of towing vessels and provide greater flexibility and efficiency for towing vessel operators. As a result of this rulemaking, operators would be able to call upon third parties or the Coast Guard to conduct compliance activities when and where they are needed.

Although the 2004 Act added towing vessels to the list of vessels subject to Coast Guard inspection and the 2010 Act directed the Secretary to issue a final rule on the inspection of towing vessels containing towing safety management system provisions, they did not prescribe how this inspection program must be designed, developed and implemented. Therefore, we consider all the new parts under the new subchapter M as discretionary, but integral to the safe operations of towing vessels and necessary to fulfill Congress' intent in the 2004 and 2010 Acts.

Additionally, when towing vessels receive their Certificates of Inspection this will trigger the following requirements outside of subchapter M for inspected vessels:

- Part 136, Certification will require the assessment of user fees, per 46 U.S.C. 2110 and 46 CFR 2.10–101, Table 2.10–101; (requiring user fee for vessel inspection services and certifications).
- 46 CFR 15.820(a) requires a Chief Engineer on certain inland towing vessels.
- 33 CFR 155.710(e)(1) requires a Person-in-Charge (PIC) for certain fuel transfers on towing vessels to be credentialed officer or to hold an MMC with a Tankerman-PIC endorsement.

See the "Discussion of Final Rule" section for a detailed discussion of this final rule and see the RA for a detailed discussion of costs, benefits and alternatives considered. Table 3 summarizes the impacts of this rulemaking.

TABLE 3—SUMMARY OF AFFECTED POPULATION, COSTS AND BENEFITS

Category	Final rule
Populations:	
Applicability	All U.S. flag towing vessels engaged in pushing, pulling, or hauling alongside, with exceptions for work boats and limited service towing vessels.
Affected Population	5,509 vessels. 1,086 companies.
Costs:	
Total Costs ($ millions, 7% discount rate).	$41.5 (annualized). $291.2 (10-year).
Industry Costs ($ millions, 7% discount rate).	$32.7 (annualized). $229.6 (10-year).
Net Government Costs ($ millions, 7% discount rate).	$8.8 (annualized). $61.6 (10-year).
Benefits:	
Benefits ($ millions, 7% discount rate).	$46.4 (annualized, millions). $325.6 (10-year).
Unquantified Benefits	Reduced congestion and delays from lock, bridge and waterway closures. Reduced risk of low and medium severity towing vessel accidents and accidents with limited information in the case report.

Table 4 summarizes the changes in the final rule as we moved from the NPRM to this final rule, and Table 5 below summarizes the changes in the RA. These changes to the RA came from either policy changes, public comments received after the publication of the NPRM, or simply from updating the data and information that informed our regulatory analysis.

TABLE 4—SUMMARY OF NOTABLE CHANGES FROM NPRM TO FINAL RULE

NPRM Section No.	FR Section No.	Summary	Impact on regulatory analysis
	1.03–55	Added section: "Appeals from decisions or actions under subchapter M of this chapter".	Added costs for appeals.
15.535	15.535	Clarified that the requirements of § 15.515 apply in addition to those of this section, and that the requirements of this section apply regardless of assistance towing or being under 200 GRT.	Included cost of compliance with § 15.515.
	136.172	Maintains current requirements for existing towing vessels for 2 years or until the vessel obtains a COI, whichever period is shorter.	Maintains existing costs for existing vessels.
138.310	138.310	Added ISO 9001–2008 as an option for auditor/assessor compliance	No change—adds compliance flexibility.

TABLE 4—SUMMARY OF NOTABLE CHANGES FROM NPRM TO FINAL RULE—Continued

NPRM Section No.	FR Section No.	Summary	Impact on regulatory analysis
138.505	138.505	Edited section to specify where in the Coast Guard audits should be sent	No change—clarifies who receives reports.
139.110	139.110	Introduced delineation that recognized classification societies qualify to do TPO audits and authorized classification societies to do as TPO surveys.	No change—adds compliance flexibility.
139.120	139.120	Changed address to which applications should be sent, added paragraph requiring applications to include information about the organization's means of assuring the availability of its personnel.	No change—clarifies who receives reports and assures availability of personnel.
139.130	139.130	For auditors, added "licensed mariner" to a list of types of relevant marine experience, and added ISO 9001–2008 as an option in addition to ISO 9001–2000.	No change—adds compliance flexibility.
139.160	139.160	Removed paragraph saying that the Coast Guard may require a replacement of a third-party auditor.	No change—adds compliance flexibility.
140.435	140.435	Deleted requirements for certain vessels to carry automatic external defibrillators and train crewmembers in their use.	Removed costs of AEDs.
140.505 and 140.520.	140.505	Eliminated § 140.520 requirements for maintaining personnel hazard exposure and medical records and revised § 140.505 requirement to keep records of health and safety incidents, including any medical records associated with the incidents.	Greatly reduced costs for keeping records on crewmember health by limiting them to those associated with incidents, added costs for records of safety incidents.
140.605	140.605	Clarified requirements associated with stability letter are only applicable to vessels that already have a stability letter, added paragraph requiring all owners or operators to maintain watertight integrity and stability.	Revised costs to include alternative methods of compliance.
140.645	140.645	Added paragraph accepting credentialed mariners as meeting the requirements of this section.	No change—adds compliance flexibility.
140.915	140.915	Added examinations and tests, and fire-detection and fixed fire-extinguishing systems to the list of items that must be recorded in the TVR, and specified requirements for items recorded electronically.	Revised costs for TVR.
141.305	141.305	Changes to Table 141.305: Removed buoyant apparatus and life float references in cold water operation; removed life float and inflatable buoyant apparatus references in warm water operation; moved inflatable liferaft with SOLAS A pack to bottom of both cold and warm water operation to delineate increasing level of safety hierarchy; and inserted the term "rigid" in front of buoyant apparatus so as not to confuse with inflatable buoyant apparatus. Added additional substitution options for survival craft in § 141.305(d)(2)(ii)–(iv) based on increasing level of safety hierarchy of same.	No change—improves readability and referencing; substitution allowance provides compliance flexibility.
141.330	141.330	Removed reference to Table 141.305 and limitations on approval of survival craft starting in 2015, added the option of using a skiff for towing vessels that only operate within 3 miles of shore, rephrased section.	No change—adds compliance flexibility.
141.340	141.340	Replaced reference to 46 CFR 199.620(c) with a reference to several approval series, specified and rephrased requirements for lifejackets in TSMS.	No change—adds compliance flexibility.
141.360	141.360	Replaced reference to 46 CFR 199.70 with a reference to several approval series, specified and rephrased requirements for lifebuoys in TSMS.	No change—adds compliance flexibility.
142.215	142.215	Rephrased for clarity, added paragraph allowing approval by the Coast Guard, OCMI, TPO, or a NRTL of new installations of fire-extinguishing or fire-detection equipment.	No change—adds compliance flexibility.
142.225	142.225	Rephrased for clarity, added FM 6050 as an acceptable standard for storage cabinet design.	No change—adds compliance flexibility.
143.200	143.200	Delayed implementation of part 143 requirements for existing vessels, consolidated applicability and grandfathering requirements from other subparts into one section.	Removed certain costs for existing vessels, delays other costs.
143.245	143.230	Rephrased for clarity, added requirements for alarms at operating stations, removed language describing possible exceptions.	Added costs for alarms at additional operating stations.
143.420	143.595	Renamed, deleted requirements for propulsion engine fuel lines and independent auxiliary steering systems.	Removed costs for existing vessels.
144.315	144.300, 144.315	Added possible standards for an existing vessel without a stability document to meet.	Revised costs to include alternative methods of compliance.

TABLE 5—CHANGES IN REGULATORY ANALYSIS FROM NPRM TO FINAL RULE

Element of regulatory analysis	Reason changed	Explanation of change
Credentialing requirements under part 15.	Public comment	Added cost estimate for requirements in part 15 that are triggered when vessel becomes "inspected". 10-year undiscounted estimated at $2.8 million.

TABLE 5—CHANGES IN REGULATORY ANALYSIS FROM NPRM TO FINAL RULE—Continued

Element of regulatory analysis	Reason changed	Explanation of change
Parts 141 Lifesaving and 142 Fire Protection.	Public comment	Added cost estimates for requirements in Parts. 10-year undiscounted estimated at $27.8 million for Part 141 and $7.0 million for Part 142.
Part 136 Certification and Part 137 Vessel Compliance.	Policy change	Added cost estimates for appeals.
Part 140 Operations	Public comment	Added costs for certain operational requirements, including navigation assessments.
Machinery and electrical systems equipment under part 143.	Policy change	Grandfathering of existing vessels or vessels whose construction began before the effective date of the final rule for §§ 143.555, 143.560, 143.565, 143.570, 143.575, 143.585, 143.605. 10-year undiscounted estimated cost is $41.4 million in the final rule and could exceed $300 million if not grandfathered (see Alternative 3).
Construction and arrangement under part 144.	Policy change	Grandfathering of existing vessels or vessels whose construction began before the effective date of the final rule for §§ 144.135 and 144.145(b). 10-year undiscounted estimated cost is $5.4 million in the final rule.
Affected population	Update to reflect current fleet composition and more comprehensive data sources.	Reviewed current data sources on towing vessel fleet and ownership and increased affected population estimate to 5,509 (from 5,208 in the NPRM).
Costs of equipment or activities	Update to reflect current prices	Collected current price data or updated prices used in NPRM by CPI.
	Public comment	Incorporated public estimates for drydock inspections in the range of costs. Added estimate for lost revenues during certain activities.
Wages	Updated BLS data	Revised labor cost by using May 2013 BLS data.
Benefit valuation	Updated value of a statistical life (VSL) and injuries values.	Updated VSL and injury valuation to reflect current guidance.
Accident analysis	Updated data from recent years	Reflected most recent 12 years of accident history (2002 to 2013).
Impacts of Rule Requirements on Cost to Shippers.	Public comment	Added assessment of cost to shippers in Appendix J.

Affected Population

We estimate that 1,086 owners and managing operators (companies) would incur additional costs from this rulemaking. The rulemaking would affect a total of 5,509 vessels owned and operated by these companies. Our cost assessment includes existing and new vessels.

Costs

We estimated costs resulting from the addition of subchapter M and costs in other subchapters that result from the inclusion of towing vessels as inspected vessels, to industry and government. During the initial phase-in period (years 1 and 2), we estimate the annual cost to industry from subchapter M requirements of the rulemaking to range from $15.8 million to $26.5 million (non-discounted). After the initial phase-in, the annual costs to industry from subchapter M requirements range from $19.2 million to $56.4 million (non-discounted). We estimate the total present value cost to industry from subchapter M requirements over the 10-year period of analysis is $227.7 million, discounted at 7 percent, and $286.8 million, discounted at 3 percent. Over the period of analysis, we estimate the annualized costs to be $32.4 million at 7 percent and $33.6 million at 3 percent. Table 6 summarizes the costs of this final rule to industry for subchapter M requirements.

TABLE 6—SUMMARY OF SUBCHAPTER M COSTS TO INDUSTRY

[$ Millions]

Year	Undiscounted	Discounted	
		7%	3%
1	$26.5	$24.8	$25.7
2	15.8	13.8	14.9
3	19.2	15.7	17.6
4	22.6	17.2	20.1
5	33.0	23.6	28.5
6	35.7	23.8	29.9
7	44.5	27.7	36.2
8	56.4	32.8	44.5
9	46.0	25.0	35.3
10	45.8	23.3	34.1
Total*	345.6	227.7	286.8
Annualized		32.4	33.6

*Values may not total due to rounding.

Additional costs to industry for requirements outside of subchapter M will result from the triggering of certification for persons in charge during oil transfer requirements by designating towing vessels as "inspected". We estimate the total present value cost of the industry non-subchapter M requirements over the 10-year period of analysis to be $1.9 million, discounted at 7 percent, and $2.4 million, discounted at 3 percent. Over the period of analysis, we estimate the annualized industry costs for requirements outside of subchapter M to be $0.3 million at 7 percent and 3 percent. Table 7 summarizes the costs of this final rule to industry.

TABLE 7—SUMMARY OF COST TO INDUSTRY FOR REQUIREMENTS OUTSIDE OF SUBCHAPTER M

[$ Millions]

Year	Undiscounted	Discounted	
		7%	3%
1	$0.0	$0.0	$0.0
2	0.0	0.0	0.0
3	0.4	0.4	0.4
4	0.4	0.3	0.4
5	0.4	0.3	0.3
6	0.4	0.3	0.3
7	0.0	0.0	0.0
8	0.4	0.3	0.3
9	0.4	0.2	0.3
10	0.4	0.2	0.3
Total*	2.8	1.9	2.4
Annualized		0.3	0.3

*Values may not total due to rounding

We estimate the total cost to industry over the 10-year period of analysis to be $229.6 million, discounted at 7 percent, and $289.1 million, discounted at 3 percent. Over the period of analysis, we estimate the annualized costs to industry to be $32.7 million at 7 percent and $33.9 million at 3 percent. Table 8 shows these estimates.

TABLE 8—SUMMARY OF TOTAL COST TO INDUSTRY

[$ Millions]

Year	Undiscounted	Discounted	
		7%	3%
1	$26.5	$24.8	$25.7
2	15.8	13.8	14.9
3	19.7	16.1	18.0
4	23.0	17.5	20.4
5	33.4	23.8	28.8
6	36.1	24.0	30.2
7	44.5	27.7	36.2
8	56.8	33.1	44.8
9	46.4	25.3	35.6
10	46.2	23.5	34.4
Total*	348.4	229.6	289.1
Annualized		32.7	33.9

*Values may not total due to rounding

We anticipate that the government will incur costs. For towing vessels that choose to comply with annual Coast Guard inspections, the government will incur costs to conduct those inspections. For other vessels choosing the TSMS option to comply, the government will incur costs to review applications for a TSMS, conduct random boardings and compliance examinations, and oversee third parties.

Table 9A displays the full cost to the government. We estimate the total present value full cost to government over the 10-year period of analysis to be $85.6 million discounted at 7 percent and $110.6 million discounted at 3 percent. Annualized full costs to government are about $12.2 million at 7 percent and $13.0 million at 3 percent discount rates.

TABLE 9A—SUMMARY OF FULL COST TO GOVERNMENT

[$ Millions]

Year	Undiscounted	Discounted	
		7%	3%
1	$0.1	$0.1	$0.1
2	0.1	0.1	0.1
3	9.5	7.7	8.7
4	12.5	9.5	11.1
5	15.4	11.0	13.3
6	17.2	11.4	14.4
7	20.7	12.9	16.8
8	20.5	11.9	16.1
9	20.0	10.9	15.3
10	19.7	10.0	14.7
Total	135.6	85.6	110.6
Annualized		12.2	13.0

The user fee paid by towing vessel owners and operators for obtaining the COI is a transfer from industry to the government. To avoid double-counting of costs, we account for this transfer by subtracting the amount of the user fee to be collected from the government costs to calculate government costs net of the transfer. Table 9B shows the amount of the user fees to be collected over the 10-year analysis period.

TABLE 9B—TRANSFER: UNDISCOUNTED USER FEES TO BE COLLECTED BY THE GOVERNMENT IN PART 136 BY YEAR

[$ million]

Year	Total number of user fees collected	Total annual user fees transferred to govt.* ($ million)
1	0	$0.000
2	0	0.000
3	1,604	1.652
4	3,150	3.245
5	4,352	4.483
6	5,509	5.674
7	5,509	5.674
8	5,509	5.674
9	5,509	5.674
10	5,509	5.674
Total		37.751

*The total annual user fees are calculated by multiplying the total number of user fees collected by the user fee, $1,030.

We estimate the total present value cost to government net of the transfer via user fee over the 10-year period of analysis to be $61.6 million discounted at 7 percent and $79.5 million discounted at 3 percent. Annualized net government costs are about $8.8 million at 7 percent and $9.3 million at 3 percent discount rates. Table 9C summarizes the net costs of this rule to government after deducting the user fee transfer.

TABLE 9C—SUMMARY OF GOVERNMENT COST NET OF TRANSFER PAYMENT

[$ Millions]

Year	Undiscounted	Discounted	
		7%	3%
1	$0.1	$0.1	$0.1
2	0.1	0.1	0.1
3	7.8	6.3	7.1
4	9.2	7.0	8.2
5	10.9	7.8	9.4
6	11.4	7.6	9.6
7	14.9	9.3	12.1
8	14.7	8.6	11.6
9	14.2	7.7	10.9
10	14.0	7.1	10.4

TABLE 9C—SUMMARY OF GOVERNMENT COST NET OF TRANSFER PAYMENT—Continued

[$ Millions]

Year	Undiscounted	Discounted	
		7%	3%
Total*	97.3	61.6	79.5
Annualized		8.8	9.3

*Values may not total due to rounding

We estimate the combined total 10-year present value cost of the rulemaking to industry and government is $291.2 million discounted at 7 percent, and $368.6 million discounted at 3 percent. The annualized costs are $41.5 million at 7 percent and $43.2 million at 3 percent.

Table 10 summarizes the total combined costs of this rule.

TABLE 10—SUMMARY OF TOTAL COST (SUBCHAPTER M AND NON-SUBCHAPTER M INDUSTRY COSTS, NET GOVERNMENT COSTS)

[$ Millions]

Year	Undiscounted	Discounted	
		7%	3%
1	$26.6	$24.9	$25.8
2	15.9	13.8	14.9
3	27.5	22.4	25.1
4	32.2	24.5	28.6
5	44.3	31.6	38.2
6	47.5	31.7	39.8
7	59.5	37.0	48.4
8	71.5	41.6	56.4
9	60.6	33.0	46.5
10	60.2	30.6	44.8
Total*	445.8	291.2	368.6
Annualized		41.5	43.2

*Values may not total due to rounding

Table 11 summarizes the total combined costs of this rule by part.

TABLE 11—SUMMARY OF TOTAL ANNUALIZED COST BY PART

Part	Annualized costs (7%, millions)
Costs to Industry	
136: Certification	$3.4
137: Compliance	10.8
138: Towing Safety Management System	2.0
139: Third-Party Organizations	0.04
140: Operations	7.3
141: Lifesaving	3.2
142: Firefighting	0.8
143: Mechanical and Electrical	4.0
144: Construction and Arrangement	0.6
Total Subchapter M Costs*	32.4
Non-Subchapter M Costs	0.3
Total to Industry*	32.7
Net Government Costs	8.8
Total Rule Cost*	41.5

*Values may not total due to rounding

The total, 10-year undiscounted costs of statutory mandate requirements are as follows:

- $38.1 million for the annual vessel inspection fees under 46 CFR 2.10–101, Table 2.10–101 for vessels requiring a certification of inspection.
- $2.8 million for credentialing requirements outside of subchapter M that are triggered when a vessel becomes "inspected".

Economic Impacts of Towing Vessel Casualties

Towing vessel casualties are incidents (*i.e.*, accidents) that involve the towing vessel and possibly other vessels such as barges, other commercial vessels, and recreational vessels. Towing vessel accidents can cause a variety of negative economic impacts, including loss of life, injuries, property damage, delays on transportation infrastructure, and damage to the environment.

Based on Coast Guard Marine Information for Safety and Law Enforcement (MISLE) data for the recent period of 2002–2013, towing vessel accidents are associated with 18 fatalities per year. Towing vessel accidents also result in an average of 37 reportable injuries per year (for the period of 2002–2013). Table 12 summarizes some of the negative impacts resulting from towing vessel accidents.

TABLE 12—NEGATIVE IMPACTS FROM TOWING VESSEL ACCIDENTS

[2002–2013]

Impact	Total effects	Total monetary damages (in millions)	Average per year	Average monetary damage per year (in millions)
Fatalities (See Note 1)	217	$1,974.700	18	$164.558
Injuries	443	$300.145	37	25.012
Property Damage (See Note 2)	603 incidents with property damage	$600.055	50	50.005
Gallons of Oil Spilled	5,192,937 gallons of oil spilled	$408.251 (See Note 3).	432,745	34.021
Total Damage		$3,283.151		273.596

Notes: (1) Fatality values are based on a $9.1 million value of a statistical life referenced in *Guidance on Treatment of the Economic Value of a Statistical Life in U.S. Department of Transportation Analyses,* US DOT, 2013, available at *http://www.dot.gov/sites/dot.dev/files/docs/VSL%20Guidance%202013.pdf.*

(2) Property damage includes property and cargo damages as reported in MISLE.

(3) Oil spilled damages are based on a $254 damage per gallon of oil spilled as indicated by *Inspection of Towing Vessels, Notice of Proposed Rulemaking, Preliminary Regulatory Analysis and Initial Regulatory Flexibility Analysis,* USCG–2006–24412, July 2011, available at *http://www.regulations.gov/#!documentDetail;D=USCG-2006-24412-0002* adjusted for actual costs for certain high volume gallons of oil spilled gallons of oil spilled spills reported to the National Pollution Funds Center.

Benefits of the Towing Vessel Final Rule

The Coast Guard developed the requirements in the rule by researching both the human factors and equipment failures that contribute to the risk of towing vessel accidents. We believe that the rule would comprehensively address a wide range of risks of towing vessel accidents and supports the main goal of improving safety in the towing industry. The primary benefit of the final rule is an increase in vessel safety and a resulting decrease in the risk of towing vessel accidents and their consequences.

Based on Coast Guard investigation findings for towing vessel accident cases from 2002–2013, we estimate that the final rule would lead to significant reductions in fatalities, injuries, property damaged, and oil spilled. These improvements in safety are expected to occur over a 10-year period as the various provisions of the final rule are phased-in. Accounting for this phase-in of requirements and resulting benefits, we estimate total 10-year discounted benefits at $325.6 million discounted at 7 percent and $403.8 million discounted at 3 percent. Over the same period of analysis, we estimate annualized benefits of the final rule to be $46.4 million at a 7 percent discount rate and about $47.3 million at a 3 percent discount rate, respectively. Table 13 displays the monetized benefits of this final rule associated with reducing fatalities, injuries, property damage, and oil spilled, resulting from towing vessel accidents.

TABLE 13—TOTAL BENEFITS

[$ Millions] *

Year	Total		
	Undiscounted benefits	Discounted benefits	
		7%	3%
1	$26.2	$24.5	$25.4
2	26.2	22.9	24.7
3	50.8	41.4	46.5
4	52.0	39.7	46.2
5	53.2	37.9	45.9
6	54.4	36.3	45.6
7	54.4	33.9	44.3
8	54.4	31.7	43.0
9	54.4	29.6	41.7
10	54.4	27.7	40.5
Total	480.6	325.6	403.8
Annualized		46.4	47.3

* Values may not total due to rounding.

Table 14 displays the annualized benefits broken out by Part. Part 140 accounts for the largest share of the benefits at $17.1 million annualized at a 7 percent discount rate.

TABLE 14—TOTAL ANNUALIZED BENEFITS BY PART

[$ millions] *

Part	Annualized quantified benefits
	7%
136–138	$3.1
139	1.1
140	17.1
141	4.4
142	1.2
143	11.1
144	8.3
Total Rule Benefits	46.4

* Values may not total due to rounding.

Unquantified Benefits

These estimates do not include the value of benefits that we have not quantified, including preventing delays and congestion due to towing vessel accidents. We are unable to monetize the value of preventing other consequences of towing vessel accidents, including delays and congestion, due to a lack of data and information. However, as discussed in the Regulatory Analysis available in the docket, the potential value of other benefits could be substantial if towing vessel accidents cause long waterway, bridge, or road closures. For large accidents that result in long delays, the economic consequences may include the following:

- Productivity losses and operating costs for stalled barge and other traffic;
- Delays in the acquisition of production inputs that can impact timely operation of manufacturing or other processes;
- Blockages of U.S. exports that can result in decreased revenue from importing foreign companies;
- Loss of quality for industries dealing with time sensitive products or products with a limited shelf life, such as commercial fishing seafood processors, seafood dealers, or other food processors and manufacturers; and
- Reduced recreational opportunities, resulting in social welfare losses.

To estimate the amount of delay caused by towing vessel incidents, we examined the 20 most severe recorded towing vessel incidents from MISLE and sample cases for these other consequences and quantified their effects. Of the 20 incidents we were able to use archived journal sources and Coast Guard incident reports to estimate number of vessels subject to a delay and total hours of delay for 13 incidents. Based on our analysis detailed in the Regulatory Analysis, these 13 incidents resulted in 28,883 vessel hours of delay. If we apply a low end estimate of the costs to operate a towing vessel per hour, the delay costs for these 13 incidents at least exceeded $10 million. However, we do not have sufficient information to scale up these examples to a nationwide estimate.

In addition, the evaluation of potential benefits from reducing the risk of accidents is dependent upon the amount of information and findings in the report of the incident found in MISLE. The benefit estimates do not include accidents for which there was a lack of detailed information in the case report to make a risk reduction determination, resulting in an underestimation of benefits. Lack of data in the cases of the low and medium severity incidents, implies that our benefits are underestimated.

Comparison of Costs to Benefits

The estimate for the total costs of the rule is $41.5 million (annualized at a 7 percent discount rate). The estimate for monetized benefits is $46.4 million (annualized at a 7 percent discount rate), based on the mitigation of risks from towing vessel accidents in terms of lives lost, injuries, oil spilled, and property damage. Subtracting the monetized costs from the monetized benefits yields a net benefit of $4.9 million. We also identified, but did not monetize, other benefits from reducing the risk of accidents that have secondary consequences of delays and congestions on waterways, highways, and railroads.

As shown in Table 15 below, by part, the operational requirements in part 140 have the highest net benefits at $9.8 million. Parts 139 and 141 through 144 also have positive net benefits. Parts 136 through 138 have negative net benefits of −$13.2 million. Parts 136 through 138 contain the requirements for inspection, obtaining COIs, and TSMSs. These activities facilitate the enforcement of the requirements in the other parts, so it is difficult to separate benefits solely for the activities in Parts 136 through 138.

TABLE 15—COMPARISON OF BENEFITS AND COSTS BY PART ANNUALIZED, 7 PERCENT

[$ millions]

Part	Description	Costs	Benefits	Net benefits
	Costs to Industry			
136–138	Certification, Inspection, TSMS	$16.3	$3.1	($13.2)
139	TPOs	0.04	1.1	1.1
140	Operations	7.3	17.1	9.8
141	Lifesaving	3.2	4.4	1.2
142	Fire Prevention	0.8	1.2	0.4
143	Mechanical and Electrical	4.0	11.1	7.1
144	Construction and Arrangements	0.6	8.3	7.7
Non-subchapter M Costs		0.3	*NQ	*NQ
Government Cost		8.8	*NQ	*NQ
Total Combined Cost of Final Rule		41.5	46.4	4.9

*NQ = Not quantified
Totals may not add due to rounding.

Overall, the regulatory analysis indicates that the preferred alternative provides owners and managing operators of towing vessels the ability to customize compliance to their individual business models, move the industry into inspected status, and improve safety.

Alternatives

At all stages of this rulemaking, including the development of the NPRM, review of public comments, and the preparation of this final rule, we considered numerous alternatives to the rule requirements. During this process, we weighed the burden posed by a requirement or group of requirements against baseline risk and potential risk reduction with the goal of improving safety of crew and public, and enhancing environmental protection, while minimizing the cost burden on industry and government. We have quantified the costs and benefits for three alternatives that are illustrative of the types and range of the many alternatives that considered throughout the rulemaking process. The alternatives explored include the following:

- Alternative 1: Limits the regulatory requirements to only the minimum required to meet the statutory requirements of inspecting towing vessels. Parts 136 to 139 are retained, related to conducting inspections, issuing COIs, using TSMS's and overseeing third parties. All operational, fire and safety, equipment and design requirements are removed.
- Alternative 2: Delays the operational requirements (Part 140) from becoming effective in Year 3 of the rule (after the 2-year implementation period) to after the first round of initial inspections and issuance of COIs is complete (Year 6).
- Alternative 3: Does not "grandfather" existing vessels for certain requirements in part 143 (*i.e.*, these requirements would apply to both new and existing vessels).

Alternatives 1–3 have net costs, compared to net benefits under the preferred alternative. A summary of the costs and benefits of the alternatives are presented in Table 16.

TABLE 16—SUMMARY OF ALTERNATIVES

[$ millions, 7% discount rate]

Alternative	Summary	Annualized cost	Annualized benefits	Net benefits or net costs *
Preferred Alternative: Final rule ..	Full implementation of parts 136–144	$41.5	$46.4	$4.9 net benefits.
Alternative 1: Parts 136–139: Inspection/TSMS only.	Full implementation of parts 136–139. Removes all other requirements.	$25.4	$4.2	($21.2) net costs.
Alternative 2: Delayed Implementation of part 140.	Full implementation of parts 136–139, parts 141–144. Delayed implementation of part 140.	$38.2	$21.1	($17.1) net costs.
Alternative 3: No grandfathering of certain equipment and design requirements in part 143.	Full implementation of parts 136–142. No grandfathering of certain requirements in Part 143.	$82.3	$55.9	($26.5) net costs.

* Net benefits do not include unquantified congestion and delay benefits.
Totals may not add due to rounding.

The RA available in the docket includes an analysis of the costs of this rulemaking by requirement and provides an assessment of potential monetized, quantified and non-quantified benefits of this rulemaking. The RA also contains details and analysis of other alternatives considered for this rulemaking.

B. Small Entities

Overview of the Final Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (Pub. L. 96–354)(RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration."

The RFA and Executive Order 13272 require a review of proposed and final rules to assess their impacts on small entities. An agency must prepare an initial regulatory flexibility analysis (IRFA) unless it determines and certifies that a rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. During the NPRM stage, the Coast Guard published an IRFA to aid the public in commenting on the potential small entity impacts of the provisions in the NPRM. All interested parties were invited to submit data and information regarding the potential economic impact that would result from adoption of the proposals in the NPRM.

When an agency promulgates a final rule under 5 U.S.C. 553, after being required by that section or any other law to publish a general NPRM, or promulgates a final interpretative rule involving the internal revenue laws of the United States as described in 5 U.S.C. 603(a), the agency must prepare a final regulatory flexibility assessment (FRFA) or have the head of the agency certify pursuant to 5 U.S.C. 605(b) that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The RFA also requires an agency to conduct a FRFA unless it determines and certifies that a rule is not expected to have a significant economic impact on a substantial number of small entities.

The Coast Guard did not certify that the final rule will not have a significant economic impact on a substantial number of small entities. We received comments and data from several commenters on the IRFA, and that information was considered for the FRFA. The RFA prescribes the content of the FRFA in section 604(a), which we discuss below.

In accordance with the RFA (5 U.S.C. 601–612), the Coast Guard prepared the FRFA in the Regulatory Analysis document that examines the impacts of the final rule on small entities (5 U.S.C. 601, *et seq.*). A small entity may be:

- A small independent business, defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act (5 U.S.C. 632);
- A small not-for-profit organization; and;
- A small governmental jurisdiction (locality with fewer than 50,000 people).

This FRFA addresses the following:

(1) A statement of the need for, and objectives of, the rule;

(2) A statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made in

the proposed rule as a result of such comments;

(3) The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments;

(4) A description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

(5) A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

(6) A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

Below is a discussion of the FRFA for each of these six elements:

(1) A statement of the need for, and objectives of, the rule

The need for Federal regulatory action is due to the risk of potential accidents caused by towing vessels on the nation's maritime system. The consequences of towing vessel accidents can be severe, including fatalities; injuries; damage to property, infrastructure and the environment; and closure of transportation assets and subsequent delays. There is also a public demand for improvements in the management of the nation's waterways.

The casualties resulting from towing vessel accidents are examples of negative externalities that are relevant to this final rule. The cost of a higher safety standard is borne by the towing vessel owner or operator, while the cost of an accident could be distributed across various entities, including the vessel owner or operator, crew, other vessel owners or operators, federal, state, and local public service providers, businesses, and private citizens. The material failure of the private market in reaching the socially optimal outcome increases the risk to the public. An uncompensated increase in risk currently exists due to inconsistent safety practices in the marine towing industry. Regulatory action is required to take steps to reduce risk industry-wide and thereby obtain the socially optimal outcome.

This final rule is authorized and made necessary by the 2004 Act, which made towing vessels subject to inspection. Further, the 2010 Act authorized the Secretary to issue a rule containing towing safety management system provisions promulgated under 46 U.S.C. 3306(j).

The objective of this regulatory action is to enhance the safe operations of towing vessels on our nation's waterways. The final rule seeks to fulfill this objective by including towing vessels on the list of vessels that Coast Guard must inspect, improving the working environment of towing vessel crews, and placing responsibility for the safe operation of towing vessels on the owners or operators of the vessels. The requirements of the final rule are designed to encourage companies to engage at every level to improve safe operations, maintenance and design and adhere to prescribed safety standards.

(2) A statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments

On August 11, 2011, the Coast Guard published an NPRM titled "Inspection of Towing Vessels" in the **Federal Register** (76 FR 49976). The Coast Guard then held four public meetings, one each in Newport News, VA; New Orleans, LA; St. Louis, MO; and Seattle, WA. We received and considered a combined total of more than 3,000 comments, from more than 265 written submissions and oral statements from 105 persons at public meetings, in developing this final rule. We summarized these comments in the "Discussion of Comments and Changes" section of the preamble for the final rule.

We received several comments from small business owners and operators on the economic impact of subchapter M regulations. Some commenters were opposed to new regulations and did not provide specific information or data on how they will be impacted by its requirements. Many other commenters requested either exemption or grandfathering from all or some of these regulations. These commenters wanted to completely avoid or mitigate the impact of the regulations so they could continue to serve the towing vessel industry. Below is a discussion of comments received on small business impacts.

Some commenters felt that subchapter M requirements would hurt small business owners and their employees, and could put many small entities out of business. However, they did not provide specific data on how much of a burden the requirements might be on their operational costs. The most specific comment received noted that recordkeeping proposals alone would require him to hire one or more new full time workers. Some other commenters pointed to the overall costs of subchapter M regulations that were previously put in a range of $100,000 to $250,000, per vessel, and potentially several million dollars per company for business entities that owned multiple towing vessels.

Several other commenters, similar to the previous group of commenters also expressed concern that their company would not be able to pay for these requirements, and therefore, either be forced out of business or be acquired by larger entities in the towing vessel industry. Due to these costly subchapter M regulations one commenter argued that lenders would delay lending and review existing ship mortgages to reassess their collateral positions. This commenter noted that this is because many small towing vessel owners and operators could not afford to comply with the requirements of the regulations. Another commenter stated that his company would lose the ability to borrow against their boats if they can't comply with the proposed regulations. One commenter estimated that no less than 20 percent of the aggregate U.S. towing fleet would be put out of service, if the final rule goes into effect as written in the NPRM.

The Coast Guard appreciates these comments on the economic impact of the final rule on small entities. Cognizant of regulatory impacts on small entities, the Coast Guard sought to minimize these impacts and has structured the final rule with this end in mind. The Coast Guard's efforts to minimize the cost impacts on small entities in the final rule include the following.

- Inspection compliance options: The Coast Guard has retained from the proposed rule flexibility in the method for complying with inspections, either through Coast Guard inspections or a TSMS. Some commenters suggested that a TSMS be mandatory for all towing owners and operators and their vessels. However, the Coast Guard has instead continued to allow either option, so that small entities can chose the approach that minimizes impacts on their particular business operations.

- Automatic External Defibrillator (AED): The Coast Guard has removed the requirement for towing vessels to have AEDs to reduce the cost impact of the final rule. The savings resulting from this change would be estimated at $2,500 per unit for each vessel.
- Pilothouse alerters: The Coast Guard has retained the requirement for pilothouse alerters, but has limited applicability to larger towing vessels (in excess of 65 ft) with potentially higher risk profiles. To reduce the burden of this requirement, the Coast Guard has also allowed for a longer implementation period. For vessels less than 65 feet, the savings are the $5,410 cost of the alerter per vessel.
- Equivalence of existing SMSs: For owners and operators that choose the TSMS option, the Coast Guard has sought to minimize additional effort to develop and implement a TSMS by establishing a process for granting equivalency between an existing SMS and a TSMS. Also, under the final rule, compliance with ISM is equivalent to a TSMS. This change has the potential to minimize efforts for the 51 percent of the affected population covered by an existing SMS, but the amount of the savings has not been quantified.
- Removing certain requirements for existing vessels: In response to comments received on the NPRM, the Coast Guard has removed certain requirements in parts 143 and 144 for existing vessels to decrease the cost. In the NPRM, the Coast Guard estimated that certain requirements could cost in the range of $5,000 to $20,000 per requirement per vessel, at a total of approximately $60,000 per vessel. Commenters provided estimates at or exceeding $100,000 to $150,000 to retrofit vessels to meet these requirements.
- Stability documents: The Coast Guard has changed certain requirements in part 144 to offer additional methods for compliance. One commenter estimated that it could cost tens of thousands of dollars to have a naval architect generate stability calculations under the NPRM proposal. Section 144.300(b) now offers three options for an existing vessel without a stability document to meet part 144 requirements: Findings based on the vessel's operation or a history of satisfactory service, successful performance on operational tests, or a satisfactory stability assessment. In particular, allowing for a vessel's history of satisfactory service in the final rule provides a lower cost method for compliance, which should serve to reduce the cost on small entities.

(3) The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments

The Coast Guard did not receive any comments from the SBA's Office of Advocacy regarding the impact that the proposed rule would have on small entities.

(4) A description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available

The final rule will affect the owners and operators of certain towing vessels. We constructed a towing vessel fleet database based on data from the Waterborne Transportation Lines of the U.S., U.S. Army Corps of Engineers; the Inland River Record, Waterways Journal; the Coast Guard's MISLE system; Web sites and other public sources. From this database we identified 5,509 vessels affected by this rule. There are 1,096 companies that own or operate these vessels.

We used available operator name and address information to research public and proprietary databases for entity type (subsidiary or parent company), primary line of business, employee size, revenue, and other information. We found 20 vessels owned by 17 governments and 6 owned by non-profits. The remainder are business entities. For governmental jurisdictions, we determined whether the jurisdiction had populations of less than 50,000 as per the criteria in the RFA. For nonprofits, we qualitatively evaluated whether the nonprofit was independently owned and operated and is not dominant in its field. For the businesses, we matched the owner information to the SBA's "Table of Small Business Size Standards" to determine if an entity is small in its primary line of business as classified in the North American Industry Classification System (NAICS). Of the 20 vessels owned by 13 governments, 5 are owned by small government jurisdictions (with fewer than 50,000 people). Of the 6 vessels owned by 3 non-profits, all are owned by non-profits that are independently operated and not dominant in their field.

There are a total of 26 NAICS-coded industries in the final rule's affected population and we show below the 11 industries that appeared most frequently in the affected population of owners or operators of towing vessels.

TABLE 17—ELEVEN MOST FREQUENT INDUSTRIES AFFECTED BY THE FINAL RULE

NAICS Code	Description	Small entity definition	Count of towing vessel entities in each NAICS code	Percent of total number of towing vessel entities
483211	Inland Water Freight Transportation	<500 Employees	71	31.8
488330	Navigational Services To Shipping	<$38,500,000	48	21.5
483113	Coastal and Great Lakes Freight Transportation	<500 Employees	42	18.8
238910	Site Preparation Contractors	<$14,000,000	13	5.8
483111	Deep Sea Freight Transportation	<500 Employees	10	4.5
213112	Support Activities For Oil & Gas Operations	<$35,500,000	5	2.2
237310	Highway Street & Bridge Construction	<$33,500,000	4	1.8
336611	Ship Building & Repairing	<1,000 Employees	4	1.8
423320	Brick, Stone/Related Construction Material Merchant Wholesalers.	<100 Employees	4	1.8
444190	Other Building Material Dealers	<$19,000,000	3	1.3
488320	Marine Cargo Handling	<$38,500,000	3	1.3

We randomly selected a sample size of the 5,509 towing vessels to reach the 95 percent confidence level. This sample produced a set of 223 businesses that own and operate the towing vessels. No governments or non-profits were in our sample. Of the 223 businesses, there were 43 companies that exceeded SBA small business size standards, 113 companies considered small by the SBA, and 67 companies for which no information was available. For the purposes of this analysis, we consider all entities for which information was not available to be small. Thus, there are 180 businesses in our sample we consider to be small entities.

Cost Methodology—Analysis Periods, Variable Costs, and Fixed Costs

The cost incurred by a particular small entity over the 10-year period of analysis varies based on the period of years in question. For the purposes of this FRFA, we analyzed the cost impacts on small entities for a representative year within two periods, as the phase-in period of the initial two years and the full implementation period from Years 3 through 10 have unique costs. During the phase-in period, companies will face initial implementation costs, such as the TSMS and conducting initial vessel surveys. Over the following full implementation period, companies will face ongoing costs associated with periodic surveys, vessels will operate under their COIs and companies will face ongoing costs associated with obtaining and renewing COIs, periodic surveys and audits, drydock inspections, and Coast Guard inspections. The scheduling of all these activities are dependent on a number of factors, such as the following:

- A vessel operating under the TSMS option will be subject to management and vessel audits and the operating company will need to obtain a TSMS Certificate.
- Many of the requirements are based on when a vessel obtains its first COI, which lasts for five years. The rule states that vessel owners/operators must spread out the initial COI over two-to-four years, depending on the size of the fleet.
- A vessel operating in salt water must have two drydock inspections in every 5-year period, while one operating in fresh water only needs one.

We anticipate that the entities will manage the compliance activities so that costs are efficiently managed. For example, an owner with vessels operating under the TSMS options having a fleet of vessels in the upper Mississippi River may want to have the Coast Guard inspect all vessels at one time during the winter when that stretch of the River is closed and the vessels are idle. As a counter example, and entity with a fleet in constant operation may want to spread the Coast Guard inspections over the five-year period to minimize disruptions to service. Thus, there is no one year in the full implementation period that contains all the cost elements for all vessels. To provide a single reference year we constructed a hypothetical "heavy load" year that contains all the requirements for a vessel and an entity. This year includes a COI renewal for a TSMS vessel, the Coast Guard inspection, and a drydock inspection and other costs that apply throughout this period. As described below, the construct of the "heavy load year" enabled the comparison of the costs for one year to revenue for one year.

To conduct the small entity revenue impact analysis we divided the total annual costs of an entity for the two periods into these three components: vessel annual variable costs, vessel annual fixed costs, and unit annual entity costs. Vessel annual variable costs are those that are dependent upon the characteristics or condition of the vessel. Vessel annual fixed costs are those that apply to all vessels, such as the requirement to post the COI. Unit annual entity costs are those that accrue at the management level of the entity. The annual costs for an entity are calculated for the phase-in and full implementation periods using the following equations:

Equation 1: Vessel Annual Unit Cost = Vessel Annual Variable Cost + Vessel Annual Fixed Cost

Equation 2: Total Annual Vessel Costs = Vessel Annual Unit Cost (eq. 1) * number of vessels

Equation 3: Total Entity Costs = Total Annual Vessel Costs (eq. 2) + Unit Annual Entity Costs

Vessel annual fixed costs and unit annual entity costs are derived for the phase-in and full-implementation periods from data in the cost model from the regulatory analysis. The fixed costs for the phase-in period are the same in both years. For the full-implementation period we used the costs associated with the hypothetical "heavy load" year, described above. Table 18 shows these costs for the two periods.

TABLE 18—ANNUAL VESSEL FIXED COSTS AND UNIT ENTITY COSTS FOR PHASE-IN AND FULL-IMPLEMENTATION PERIODS

Period	Annual vessel fixed cost	Annual entity unit cost
Phase-In	$11,480	$23,737
Full Implementation	5,045	5,250

In the regulatory analysis, we used MISLE deficiency data to estimate the number of vessels that would need to make changes to comply with various system or equipment standards. This generated population based estimates, but did not identify the specific vessels that would incur these compliance costs.

To estimate vessel variable costs, we adopted the Monte Carlo methodology used in the IRFA. We used the Monte Carlo as a tool to resolve the uncertainties related to which vessels will need to comply with which requirements, each with their own unit costs and affected populations. The Monte Carlo model we developed accounts for the ranges of unit costs and affected populations across the requirements by taking as inputs the specific unit costs and affected populations for each requirement. The output of the model is a distribution of total variable costs.

The Monte Carlo model simulated a one-year variable costs for the phase-in and full-implementation periods separately. The inputs are from the cost estimates of each requirement: The affected population recast as a percentage of the total vessel population, and the unit costs. Each simulation was run 10,000 times to produce a distribution of costs. For a point estimate of the vessel annual variable costs we took the average value of each distribution, which yielded $4,787 for the phase-in period and $9,866 for the full implementation period.

To summarize from the presentations above, the parameters for the phase-in period are the following:

Vessel Annual Variable Cost = $4,787
Vessel Annual Fixed Cost = $11,480
Entity Annual UnitCost = $5,045.

Applying Equation 1 from above, Vessel Annual Unit Cost = $16,267 (Vessel Annual Variable Cost, $4,787, + Vessel Annual Fixed Cost, $11,480).

The variable inputs are the number of vessels operated by each entity, which is found in the Affected Population Database, and the entity's revenue.

We developed an annual revenue impact analysis for the average company in our sample. The average number of vessels per company in our sample is 1.7, so the two-vessel example is representative of an average company. We estimate this average two-vessel owning small entity will incur an annual cost of $37,579 during the two-year phase-in period of this rule. Consequently, the total two-year implementation cost for the average small entity is estimated at $75,158. The average annual revenue across the sample is $10,058,187. With these inputs we derived an estimate of the annual revenue impact for the average entity in the sample. The results of this analysis are shown as Example 1 in Table 19. Examples 2 through 4 show the calculations for examples of applying Equations 2 and 3 for three hypothetical companies, with one-, three-, and four-vessel fleets, respectively.

TABLE 19—EXAMPLES OF ANNUAL REVENUE IMPACT CALCULATIONS DURING THE PHASE-IN PERIOD FOR THE AVERAGE-SIZE FLEET (2 VESSELS) AND HYPOTHETICAL EXAMPLES FOR 1-, 3-, AND 4-VESSEL FLEETS

[Revenue for example 2 is sample average, others are hypothetical]

(A) Entity name	(B) Fleet size	(C) Vessel annual unit cost	(D) Vessel annual cost (B * C)	(E) Entity annual unit cost	(F) Total annual cost (D + E)	(G) Annual revenue	(H) Annual revenue impact (F/G) %
Example 1 (Average Entity)	2	$16,267	$32,534	$5,045	$37,579	$10,058,187	0.40
Hypothetical Examples							
Example 2	1	16,267	16,267	5,045	21,312	5,000,000	0.43
Example 3	3	16,267	48,801	5,045	53,846	15,000,000	0.36
Example 4	4	16,267	65,068	5,045	70,113	20,000,000	0.35

For the 92 businesses with revenue data, we calculated the total costs for each small entity and a revenue impact as a percentage of revenue. Table 21 presents the annual revenue impact on small entities for the phase-in and full implementation periods.

TABLE 21—PERCENTAGE OF ESTIMATED ANNUAL REVENUE IMPACT ON AFFECTED SMALL ENTITIES

Revenue impact range	Annual impacts from phase-in costs (average of Years 1–2)		Annual impacts from implementation costs ("heavy load" year)	
	Number of entities	Percent of entities	Number of entities	Percent of entities
0% <= 1%	60	65.2	44	47.8
1% <= 3%	19	20.7	27	29.3
3% <= 5%	2	2.2	8	8.7
5% <= 10%	5	5.4	2	2.2
Above 10%	6	6.5	11	12.0
Total	92	100.0	92	100.0

During the phase-in period, for the average cost per year, our analysis indicates that nearly 65 percent of the small entities will have an annual revenue impact of 1% or less. Approximately 28.3 percent of the small entities will have an annual revenue impact of between 3 percent and 10 percent. The remaining 6.5 percent of the small entities will have an annual revenue impact of over 10 percent.

After full implementation of inspections and COIs, we estimate that 47.8 percent of the small entities will have an annual revenue impact of 1% or less. Approximately 40.2 percent of the small entities will have an annual revenue impact of between 3 percent and 10 percent. The remaining 12.0 percent of the small entities will have an annual revenue impact of over 10 percent.

(5) A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record

Under the provisions of the final rule, 5,509 towing vessels owned by 1,096 towing vessel companies will be required to conduct a variety of reporting and recordkeeping activities, related to obtaining and renewing a COI, which will involve compiling information, submission, and third part review. Additionally, information will be collected at the vessel and company level regarding safety, operations, drills, record keeping, and general compliance. These requirements will be added as a new collection of information with the OMB control number 1625–0117 with the title "Towing Vessels—Title 46 CFR Subchapter M. Please refer to Chapter 11, "Paperwork Reduction Act", the Regulatory Analysis for further detail.

(6) A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes,

including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected

Prior to this rulemaking, the Coast Guard participated in the TSAC meetings that helped formulate our proposals in the NPRM. Small entities had the opportunity to participate in this Committee and the Economic Analysis Working Group.

The Coast Guard has made a number of changes from the proposals in the NPRM after consideration of public comments. A full discussion of comments and Coast Guard responses is found in the "Discussion of Comments and Changes" section above. In developing both the original proposal and the final rule, the following are examples of the Coast Guard's efforts to minimize the economic impact on small entities.

Inspection compliance options: The Coast Guard has retained from the proposal the choice of method for complying with inspections, either through Coast Guard inspections or a TSMS. Some commenters suggested that a TSMS be mandatory for all towing owners and operators and their vessels. However, the Coast Guard has instead continued to allow either option, so that small entities can choose the approach that minimizes impacts on their particular business operations.

AED: The Coast Guard has removed the requirement for towing vessels to have AEDs to reduce the cost impact of the final rule.

Pilothouse alerters: The Coast Guard has retained the requirement for pilothouse alerters, but has limited applicability to larger towing vessels (in excess of 65 ft) with potentially higher risk profiles. To reduce burden of this requirement the Coast Guard has also allowed for a longer implementation period.

Equivalence of existing SMSs: For owners and operators that chose the TSMS option, Coast Guard has sought to minimize effort to develop and implement a TSMS by establishing a process for granting equivalency between an existing SMS and a TSMS. Also, under the final rule, compliance with ISM is equivalent to a TSMS.

Removing certain requirements for existing vessels: In response to comments received on the NPRM, the Coast Guard has removed certain requirements in parts 143 and 144 for existing vessels to decrease the cost.

Stability documents: The Coast Guard has changed certain requirements in part 144 to offer additional methods for compliance. Section 144.300(b) now offers three options for an existing vessel without a stability document to meet part 144 requirements: Findings based on the vessel's operation or a history of satisfactory service, successful performance on operational tests, or a satisfactory stability assessment. In particular, allowing for a vessel's history of satisfactory service in the final rule provides a lower cost method for compliance, which should serve of compliance to reduce the cost on small entities.

The Coast Guard discusses the full range of alternatives considered in Section 6 of the RA. We monetized the impacts of three alternatives. Table 13 above summarizes the costs, benefits and net benefits of the alternatives considered and the preferred alternative adopted in the final rule.

Alternative 1 estimates impacts of only implementing the inspection requirements of the final rule, without the operational, lifesaving, fire protection, machinery and electrical, and construction and arrangement requirements. Although this approach reduces the cost impacts of the final rule, the benefits fall by almost 85 percent. The annualized net impact of the rule (benefits minus costs) falls from $4.5 million in net benefits for the preferred alternative to a net cost of $21.2 million. Requiring only the inspection requirements without also increasing the standards in the other CFR parts fails to meet the objective of improving towing vessel safety and decreasing the risk of towing vessel accidents to a substantive degree. The Coast Guard developed and chose the comprehensive approach that combines an inspection regime with improved standards as it results in the greater societal outcomes, as demonstrated by the net benefits.

Similarly, Alternative 2, which estimates the impact of delaying implementation of the operational standards found in Part 140, also results in lower annualized net impacts: $4.5 million net benefits for the preferred alternative and $17.1 million net costs for Alternative 2. The Coast Guard chose not to delay implementation of the operational standards in part 140 as it results in the greater societal outcomes, as demonstrated by the net benefits.

Alternative 3 analyzes the impacts of not removing certain requirements in parts 143 and 144 (as discussed above). Alternative 3 has a greater cost burden, including greater impact on small entities, than the preferred alternative and results in net costs of $26.4 million. For these reasons, the Coast Guard has applied the certain requirements in parts 143 and 144 to only new vessels and reduced the burden on small entities.

We are interested in the potential impacts from this final rule on small businesses and we request public comment on these potential impacts.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. As noted, we have prepared a Small Entities Guide for this rule and have placed in it the docket for this rulemaking. If the final rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult LCDR Will Nabach, Project Manager, CG–OES–2, Coast Guard, telephone 202–372–1386. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This final rule would call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), "Collection of Information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Towing Vessels—Title 46 CFR Subchapter M.

Summary of the Collection of Information: Owners and managing operators of inspected towing vessels would be required to either develop and maintain documentation for their safety management system and arrange periodic audits and surveys through third-party organizations, or to demonstrate compliance with the subchapter M to Coast Guard inspectors. Additional documentation would be required to obtain a Certificate of Inspection for each vessel, comply with crew and vessel operational safety standards, vessel equipment and system standards, procedures and schedules for routine tests and inspections of towing vessels and their onboard equipment and systems. The new requirements for third-party auditors and surveyors include obtaining Coast Guard approval and renewing it periodically. The Coast Guard would be burdened by reviewing required reports, conducting compliance examinations of towing vessels and overseeing third-party auditors and surveyors through approval and observation.

Need for Information: The information is necessary for the proper administration and enforcement of the towing vessel inspection program.

Proposed use of Information: The Coast Guard would use this information to document that towing vessels meet inspection requirements of subchapter M.

Description of the Respondents: The respondents are the owners and managing operators of towing vessels and third-party auditors and surveyors that would be required to complete various forms, reports and keep reports.

Number of Respondents: The 5,694 respondents are the owners and operators of 5,509 affected towing vessels and 185 entities that employ the third-party auditors and surveyors.

Frequency of Response: The average responses per year are 7,660,257.

Estimate of Total Annual Burden: The total annual burden is 181,669 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the Coast Guard could enforce the collection of information requirements in this rule, OMB would need to approve the Coast Guard's request to collect this information.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132. Our analysis is explained below.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (*See* the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke and Intertanko* v. *Locke*, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000)). This rule covers all of the foreclosed categories, as it establishes regulations covering a new category of inspected vessels, as mandated by Congress. Because the States are now foreclosed from regulating towing vessels in these categories, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988 ("Civil Justice Reform"), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under E.O. 13045 ("Protection of Children from Environmental Health Risks and Safety Risks"). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under E.O. 13175 ("Consultation and Coordination with Indian Tribal Governments"), because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under E.O. 13211 ("Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use"). We have determined that it is not a "significant energy action" under E.O. 13211, because although it is a "significant regulatory action" under E.O. 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the Administrator of OMB's Office of Information and Regulatory Affairs has not designated it as a significant energy action.

L. Technical Standards and 1 CFR Part 51

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This final rule uses the following voluntary consensus standards from:

The American Boat and Yacht Council (ABYC)—
- ABYC E–11 (2003), AC and DC Electrical Systems on Boats. This standard covers the design, construction, and installation of direct current (DC) electrical systems on boats and of alternating current (AC) electrical systems on boats. ABYC H–2 (2000), Ventilation of Boats Using Gasoline. This standard covers the design, construction, and installation of ventilation systems of engine and fuel tank compartments of boats using gasoline for mechanical power, propulsion, or auxiliary generators. ABYC H–22 (2005), Electric Bilge Pump Systems. This standard covers the design, construction, installation, operation, and control of electric bilge pump systems on boats.
- ABYC H–24 (2007), Gasoline Fuel Systems. This standard covers the design, choice of materials for, construction, installation, repair, and maintenance of permanently installed gasoline fuel systems on boats."
- ABYC H–25 (2003), Portable Gasoline Fuel Systems. This standard covers the design, construction and stowage of portable tanks with related fuel lines and accessories comprising a portable gas fuel system for boats.
- ABYC H–32 (2004), Ventilation of Boats Using Diesel Fuel. This standard covers the design, construction, and installation of ventilation systems of boats using diesel fuel only for electrical generation, mechanical power, and propulsion.
- ABYC H–33 (2005), Diesel Fuel Systems. This standard covers the design, choice of materials, construction, installation, repair, and maintenance of permanently installed diesel fuel systems on boats.
- ABYC P–1 (2002), Installation of Exhaust Systems for Propulsion and Auxiliary Engines. This standard covers the design, installation and selection of materials for exhaust systems for marine engines of boats.
- ABYC P–4 (2004), Marine Inboard Engines and Transmissions. This standard covers the design, construction, installation, and selection of materials for inboard engines and transmissions on boats.

The American Bureau of Shipping (ABS)—
- ABS Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways, 2007. These standards are for barges, towboats, cargo vessels and passenger vessels in service on major rivers and on connecting intracoastal waterways. They are applicable to those features that are permanent in nature and can be verified by plan review, calculation, physical survey or other appropriate means.
- ABS Rules for Building and Classing Steel Vessels Under 90 Meters (295 Feet) in Length, 2006. These standards are applicable to self-propelled steel vessels under 90 meters (295 feet) in length intended for unrestricted ocean service, except where specifically mentioned otherwise.

The American Society for Quality (ASQ), Quality Press—
- ANSI/ISO/ASQ Q9001–2000, American National Standard: Quality management systems—Requirements. This standard specifies requirements for an organization's quality management system.

FM Approvals—
- FM 6050–1996, Approval Standard for Storage Cabinets (Flammable and Combustible Liquids). This standard contains performance and construction requirements for cabinets designed to provide safe and secure storage for flammable and combustible liquids.

The International Maritime Organization (IMO)—
- Resolution A.520(13), Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-saving Appliances and Arrangements, November 17, 1983. This code prescribes the appliance and arrangement criteria which should be taken into account and prototype tests which should be carried out for the evaluation of novel designs for international acceptance. Resolution A.658(16), Use and Fitting of Retro-Reflective Materials on Life-saving Appliances, October 19, 1989. This resolution details the requirements for use, fitting, and size/type of retro-reflective materials on life-saving appliances.
- Resolution A.688(17), Fire Test Procedures For Ignitability of Bedding Components, 1991. This resolution details the fire test procedures to determine the ignitability of bedding components.
- Resolution A.760(18), Symbols Related to Life-Saving Appliances and Arrangements, November 4, 1993. This resolution details the requirements for symbols related to life-saving appliances and arrangements.
- International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended. This international convention is designed to improve the safety of shipping.

The International Organization for Standardization (ISO)—
- ISO 9001–2008(E), International Standard: Quality management systems—Requirements, Fourth edition, dated November 15, 2008. This international standard details the requirements for quality management systems.
- ISO 14726–2008(E), International Standard: Ships and marine technology-Identification colours for the content of piping systems, First edition, dated May 1, 2008. This international standard specifies main colors and additional colors for identifying piping systems in accordance with the content or function on board ships and marine structures.

The National Fire Protection Association (NFPA)—
- NFPA 10, Standard for Portable Fire Extinguishers, 2007 Edition, effective August 17, 2006. The provisions of this standard apply to the selection, installation, inspection, maintenance, and testing of portable extinguishing equipment.
- NFPA 70, National Electrical Code (NEC), 2002 Edition, effective August 2, 2001. The provisions of this standard apply to the design, modification, construction, inspection, maintenance, and testing of electrical systems/installations and equipment.
- NFPA 302, Fire Protection Standard for Pleasure and Commercial Motor Craft, 1998 Edition. This standard specifies provisions for fire protection on pleasure and commercial motor craft.
- NFPA 306, Standard for the Control of Gas Hazards on Vessels, 2014 Edition, effective June 17, 2013. This standard describes the conditions required before a space can be entered or work can be started, continued, or started and continued on any vessel under construction, alteration, or repair, or on any vessel awaiting shipbreaking.
- NFPA 750, Standard on Water Mist Fire Protection Systems, 2006 Edition, effective February 16, 2006. This standard contains the minimum requirements for the design, installation, maintenance, and testing of water mist fire

protection systems.

- NFPA 1971, Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, 2007 Edition, effective August 17, 2006. This standard specifies the minimum design, performance, testing, and certification requirements for certain types of fire fighting protective ensembles and ensemble elements that include coats, trousers, coveralls, helmets, gloves, footwear, and interface components.

The Society of Automotive Engineers (SAE)—

- ANSI/SAE Z 26.1–1996, American National Standard for Safety Glazing Materials for Glazing Motor Vehicles and Motor Vehicle Equipment Operating on Land Highways—Safety Standard. This standard provides specifications and methods of testing for safety glazing material used for windshields, windows, and partitions of land and marine vehicles and aircraft.
- SAE J1475–Revised JUN96—Hydraulic Hose Fitting for Marine Applications, revised June 1996. This standard covers general and performance specifications for certain hydraulic hose fittings used in conjunction with nonmetallic flexible hoses for marine applications.
- SAE J1942–Revised APR2007—Hose and Hose Assemblies for Marine Applications, revised April 2007. This standard covers specific requirements for several styles of hose and/or hose assemblies in systems on board commercial vessels inspected and certificated by the U.S. Coast Guard.

UL (formerly Underwriters Laboratories, Inc.)—

- UL 217, Standard for Safety for Single and Multiple Station Smoke Alarms, Sixth Edition, dated August 25, 2006. Along with other types of smoke alarms used in different settings, this standard specifies requirements for smoke alarms intended for use in recreational boats.
- UL 1104, Standard for Safety for Marine Navigation Lights, Second Edition, dated October 29, 1998. These requirements cover marine navigation light fixtures intended for use in accordance with the applicable U. S. Coast Guard regulations.
- UL 1275, Standard for Safety for Flammable Liquid Storage Cabinets, Third Edition, dated June 30, 2005. These requirements cover cabinets intended to be used to provide an indoor storage area for limited quantities of flammable and combustible liquids in containers in compliance with specified standards.

Consistent with 1 CFR part 51 incorporation-by-reference provisions, this material is reasonably available. Interested persons have access to it through their normal course of business, may purchase it from sources listed in 46 CFR 136.112, or may view a copy by the means we have identified in the **ADDRESSES** section. Section 136.112 also identifies the sections that reference these standards.

M. Environment

We have analyzed this final rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370f, and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A final environmental analysis checklist and categorical exclusion determination supporting this determination are available in the docket where indicated under the **ADDRESSES** section of this preamble. This final rule involves regulations that are procedural; regulations concerning the training of maritime personnel; regulations concerning manning, documentation, inspection and equipping of vessels; regulations concerning equipment approval and carriage requirements; regulations concerning vessel operation safety standards; and Congressionally mandated regulations designed to improve or protect the environment. This action falls under section 2.B.2, figure 2–1, paragraphs (34)(a), (c), (d), and (e) of the Commandant Instruction M16475.lD, and under section 6(a) and (b) of the "Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy" (67 FR 48243, July 23, 2002).

List of Subjects

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

46 CFR Part 136

Incorporation by reference, Reporting and recordkeeping requirements, Towing vessels.

46 CFR Part 137

Marine safety, Reporting and recordkeeping requirements, Towing vessels.

46 CFR Part 138

Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Towing vessels.

46 CFR Part 139

Incorporation by reference, Reporting and recordkeeping requirements, Towing vessels.

46 CFR Part 140

Incorporation by reference, Marine safety, Occupational health and safety, Penalties, Reporting and recordkeeping requirements, Towing vessels.

46 CFR Part 141

Incorporation by reference, Marine safety, Occupational health and safety, Reporting and recordkeeping requirements, Towing vessels.

46 CFR Part 142

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Towing vessels.

46 CFR Part 143

Hazardous materials transportation, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Towing vessels.

46 CFR Part 144

Cargo vessels, Incorporation by reference, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements, Towing vessels.

46 CFR Part 199

Cargo vessels, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 1, 2, 15, and 199 and adds 46 CFR subchapter M, consisting of parts 136, 137, 138, 139, 140, 141, 142, 143, and 144 as follows:

46 CFR CHAPTER I

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

■ 1. The authority citation for part 1 is revised to read as follows:

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 46 U.S.C. Chapter 93; Secs. 101, 888, and 1512, Pub. L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1; § 1.01–35 also issued under the authority of 44 U.S.C. 3507; and § 1.03–55 also issued under the authority of 46 U.S.C. 3306(j).

■ 2. Add § 1.03–55 to read as follows:

§ 1.03–55 Appeals from decisions or actions under subchapter M of this chapter.

(a) Any person directly affected by a decision or action by a classification society or a third-party organization performing a survey under subchapter M of this chapter may, after requesting reconsideration of the decision or action by the classification society or third-party organization, make a formal appeal to the cognizant OCMI.

(b) Any person directly affected by a decision or action by a classification society or a third-party organization performing an audit under subchapter M of this chapter may, after requesting reconsideration of the decision or action by the classification society or third-party organization, make a formal appeal to the District Commander of the district in which the audit was performed.

(c) Any third-party organization or person from a third-party organization directly affected by a decision or action of the Coast Guard Towing Vessel National Center of Expertise (TVNCOE) may submit a formal appeal to Commandant (CG–CVC) for appeals of decisions by the TVNCOE related to subchapter M of this chapter.

(d) Any person directly affected by a decision or action by an OCMI or District Commander may make a formal appeal pursuant to § 1.03–20 or § 1.03–25, respectively.

PART 2—VESSEL INSPECTIONS

■ 3. The authority citation for part 2 continues to read as follows:

Authority: Sec. 622, Pub. L. 111–281; 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 2103, 2110, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1–105; Department of Homeland Security Delegation No. 0170.1(II)(77), (90), (92)(a), (92)(b).

■ 4. Amend § 2.01–7 as follows:

■ a. In paragraph (a) introductory text, before the word "as", add the word "either"; and remove the colon, and add, in its place, the words "or, if the vessel is a towing vessel, as provided in paragraph (b) of this section.";

■ b. Redesignate paragraph (b) as paragraph (c);

■ c. Add new paragraph (b) and paragraph (c)(7) to newly redesignated paragraph (c).

The addition reads as follows:

§ 2.01–7 Classes of vessels (including motorboats) examined or inspected and certificated.

* * * * *

(b)(1) A U.S.-flag towing vessel is subject to inspection and certifying regulations in subchapter M of this chapter except:

(i) A vessel less than 26 feet (7.92 meters) in length measured from end to end over the deck (excluding the sheer), unless that vessel is pushing, pulling, or hauling a barge that is carrying oil or hazardous material in bulk;

(ii) A vessel engaged in one or more of the following:

(A) Assistance towing as defined in § 136.110 of this chapter;

(B) Towing recreational vessels for salvage; or

(C) Transporting or assisting the navigation of recreational vessels within and between marinas and marina facilities, within a limited geographic area, as determined by the local Captain of the Port;

(iii) A workboat operating exclusively within a worksite and performing intermittent towing within the worksite;

(iv) A seagoing towing vessel of 300 gross tons or more subject to the provisions of subchapter I of this chapter;

(v) A vessel inspected under other subchapters of this chapter that may perform occasional towing;

(vi) A public vessel as defined in 46 U.S.C. 2101;

(vii) A vessel which has surrendered its Certificate of Inspection and is laid up, dismantled, or otherwise out of service; and

(viii) A propulsion unit used for the purpose of propelling or controlling the direction of a barge where the unit is controlled from the barge, is not normally manned, and is not utilized as an independent vessel.

(2) A towing vessel not subject to subchapter M of this chapter should refer to table 2.01–7 of this section.

(c) * * *

(7) For towing vessels, see part 136 of subchapter M of this chapter.

§ 2.10–25 [Amended]

■ 5. In § 2.10–25, in the definition of "Sea-going towing vessel", after the second occurrence of the word "alongside", add the phrase ", that has been issued a Certificate of Inspection under the provisions of subchapter I of this chapter".

PART 15—MANNING REQUIREMENTS

■ 6. The authority citation for part 15 is revised to read as follows:

Authority: 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8103, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906 and 9102; sec. 617, Pub. L. 111–281, 124 Stat. 2905; and Department of Homeland Security Delegation No. 0170.1.

§ 15.501 [Amended]

■ 7. Amend § 15.501(b) by removing the word "Emergency" and adding, in its place, the lower case word "emergency".

■ 8. Revise § 15.505 to read as follows:

§ 15.505 Changes in the certificate of inspection.

All requests for changes in manning as indicated on the COI must be sent to—

(a) The Officer in Charge, Marine Inspection (OCMI) who last issued the COI; or

(b) The OCMI conducting the inspection, if the request is made in conjunction with an inspection for certification.

§ 15.510 [Amended]

■ 9. Amend § 15.510 by removing the word "therefrom".

■ 10. Add § 15.535 to read as follows:

§ 15.535 Towing vessels.

(a) *Applicability.* Except as provided in this paragraph (a), the requirements in this section apply to a towing vessel subject to subchapter M of this chapter. Vessels subject to this section must also meet the requirements in § 15.515(c). A towing vessel at least 8 meters (26 feet) in length, measured from end to end over the deck (excluding sheer), that is not subject to subchapter M must meet the requirements in paragraph (b) of this section if it is—

(1) A seagoing towing vessel of 300 gross tons or more subject to the provisions of subchapter I of this chapter;

(2) A vessel inspected under other subchapters of this chapter that may perform occasional towing; or

(3) A public vessel as defined in 46 U.S.C. 2101.

(b) *Towing vessels 8 meters or more in length.* Every towing vessel of at least 8 meters (26 feet) in length, measured from end to end over the deck (excluding sheer), must be under the direction and control of a person holding a MMC endorsed as master or mate (pilot) of towing vessels or as master or mate of vessels of greater than 200 gross register tons, holding a completed Towing Officer Assessment Record signed by a designated examiner indicating that the officer is proficient in the operation of towing vessels upon the appropriate route.

(c) *Towing Vessels of Any Length on the Lower Mississippi River.* In addition to the requirements of paragraph (b) of this section, any towing vessel operating in the pilotage waters of the Lower Mississippi River must be under the control of an officer who holds either a first-class pilot's endorsement for that route, or MMC officer endorsement for the Western Rivers, or who meets the requirements of either paragraph (c)(1) or (2) of this section, as applicable.

(1) *Moving tank or hazardous material barges.* To operate a towing vessel with tank barges or a tow of barges carrying hazardous material regulated under subchapter N or O of this chapter, the officer in charge of the towing vessel must have completed at least 12 round trips over this route as an observer, with at least 3 of those trips during hours of darkness, and must provide evidence to the Coast Guard upon request that at least 1 of the 12 round trips occurred within the last 5 years.

(2) *Moving uninspected barges or no barges.* To operate a towing vessel without barges or a tow of uninspected barges, the officer in charge of the towing vessel must have completed at least 4 round trips over this route as an observer, with at least 1 of those trips during hours of darkness, and must provide evidence to the Coast Guard upon request that at least 1 of the 4 round trips occurred within the last 5 years.

■ 11. Amend § 15.610 as follows:

■ a. Revise the section heading;

■ b. Redesignate paragraphs (a) and (b) as paragraphs (b) and (c), respectively;

■ c. Add new paragraph (a); and

■ d. In newly redesignated paragraph (c):

■ i. Remove the reference "paragraph (a)" wherever it appears, and add, in each place, the reference "paragraph (b)";

■ ii. Remove the reference "paragraphs (b)(1) or (b)(2)" and add, in its place, the reference "paragraph (c)(1) or (2)"; and

■ iii. In paragraphs (c)(1) and (2), add the words "to the Coast Guard" immediately after the word "evidence".

The revision and additions read as follows:

§ 15.610 Master and mate (pilot) of uninspected towing vessels.

(a) The requirements in this section apply to towing vessels, except for—

(1) Towing vessels that are subject to subchapter M in accordance with § 136.105 of this chapter;

(2) Towing vessels that are seagoing and 300 gross or more tons subject to the provisions of subchapter I of this chapter;

(3) Towing vessels that are inspected under other subchapters of this chapter that may perform occasional towing; and

(4) Towing vessels that are public vessels as defined in 46 U.S.C. 2101.

* * * * *

§ 15.815 [Amended]

■ 12. In § 15.815(c), remove the word "uninspected".

■ 13. Add 46 CFR subchapter M, comprised of parts 136, 137, 138, 139, 140, 141, 142, 143, and 144, to read as follows:

SUBCHAPTER M—Towing Vessels

PART 136—CERTIFICATION

PART 137—VESSEL COMPLIANCE

PART 138—TOWING SAFETY MANAGEMENT SYSTEM (TSMS)

PART 139—THIRD–PARTY ORGANIZATIONS

PART 140—OPERATIONS

PART 141—LIFESAVING

PART 142—FIRE PROTECTION

PART 143—MACHINERY AND ELECTRICAL SYSTEMS AND EQUIPMENT

PART 144—CONSTRUCTION AND ARRANGEMENT

PART 136—CERTIFICATION

Sec.
Subpart A—General
136.100 Purpose.
136.105 Applicability.
136.110 Definitions.
136.112 Incorporation by reference.
136.115 Equivalents.
136.120 Special consideration.
136.130 Options for documenting compliance to obtain a Certificate of Inspection.
136.172 Temporary compliance for existing towing vessels.
136.175 Approved equipment.
136.180 Appeals.
Subpart B—Certificate of Inspection
136.200 Certificate required.
136.202 Certificate of Inspection phase-in period.
136.205 Description.
136.210 Obtaining or renewing a COI.
136.212 Inspection for certification.
136.215 Period of validity.
136.220 Posting.
136.230 Routes permitted.
136.235 Certificate of Inspection amendment.
136.240 Permit to proceed.
136.245 Permit to carry an excursion party or temporary extension or alteration of route.
136.250 Load lines.

Authority: 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; DHS Delegation 0170.1.

Subpart A—General

§ 136.100 Purpose.

This part sets out the applicability for this subchapter and describes the requirements for obtaining and renewing a Certificate of Inspection (COI).

§ 136.105 Applicability.

(a) This subchapter is applicable to all U.S.-flag towing vessels as defined in § 136.110 engaged in pushing, pulling, or hauling alongside, except—

(1) A vessel less than 26 feet (7.92 meters) in length measured from end to end over the deck (excluding the sheer), unless that vessel is pushing, pulling, or hauling a barge that is carrying oil or hazardous material in bulk;

(2) A vessel engaged in one or more of the following:

(i) Assistance towing as defined in § 136.110;

(ii) Towing recreational vessels for salvage; or

(iii) Transporting or assisting the navigation of recreational vessels within and between marinas and marina facilities, within a limited geographic area, as determined by the local Captain of the Port (COTP);

(3) A workboat operating exclusively within a worksite and performing intermittent towing within the worksite;

(4) A seagoing towing vessel of 300 gross tons or more subject to the provisions of subchapter I of this chapter;

(5) A vessel inspected under other subchapters of this chapter that may perform occasional towing;

(6) A public vessel as defined in 46 U.S.C. 2101;

(7) A vessel that has surrendered its COI and is laid up, dismantled, or otherwise out of service; and

(8) A propulsion unit used for the purpose of propelling or controlling the direction of a barge where the unit is

controlled from the barge, is not normally manned, and is not utilized as an independent vessel.

(b) [Reserved]

§ 136.110 Definitions.

As used in this subchapter:

ABS Rules means the standards developed and published by the American Bureau of Shipping regarding the design, construction and certification of commercial vessels.

Accommodation space means any:

(1) Messroom;

(2) Lounge;

(3) Sitting area;

(4) Recreation room;

(5) Quarters;

(6) Toilet space;

(7) Shower room;

(8) Galley;

(9) Berthing space;

(10) Clothing-changing room; or

(11) A similar space open to individuals.

Anniversary date means the day and the month of each year that corresponds to the date of expiration on the COI or Towing Safety Management System (TSMS) Certificate.

Approval series means the first six digits of a number assigned by the Coast Guard to approved equipment. Where approval is based on a subpart of 46 CFR chapter I, subchapter Q, the approval series corresponds to the number of the subpart. A list of approved equipment, including all of the approval series, is available at *http://cgmix.uscg.mil/Equipment/EquipmentSearch.aspx.*

Assistance towing means towing a disabled vessel for consideration as defined in 46 U.S.C. 2101.

Audit means a systematic, independent, and documented examination to determine whether activities and related results comply with a vessel's TSMS, or with another applicable Safety Management System (SMS), and whether these planned arrangements are implemented suitably to achieve stated objectives. This examination includes a thorough review of appropriate reports, documents, records, and other objective evidence to verify compliance with applicable requirements.

(1) The audit may include, but is not limited to:

(i) Examining records;

(ii) Asking responsible persons how they accomplish their assigned duties;

(iii) Observing persons performing specific tasks within their assigned duties;

(iv) Examining equipment to ensure proper maintenance and operation; and

(v) Checking training records and work environments.

(2) The audit may be limited to the random selection of a representative sampling throughout the system that presents the auditor with sufficient, objective evidence of system compliance.

Authorized classification society means a recognized classification society that has been delegated the authority to conduct certain functions and certifications on behalf of the Coast Guard.

Berthing space means a space that is intended to be used for sleeping, and is provided with installed bunks and bedding.

Bollard pull means the maximum static pulling force that a towing vessel can exert on another vessel or on an object when its propulsion engines are applying thrust at maximum horsepower.

Change in ownership means any change resulting in a change in the day-to-day operational control of a third-party organization (TPO) that conducts audits and surveys, or a change that results in a new entity holding more than 50 percent of the ownership of the TPO.

Class Rules means the standards developed and published by a classification society regarding the design, construction, and certification of commercial vessels.

Coastwise means a route that is not more than 20 nautical miles offshore on:

(1) Any ocean;

(2) The Gulf of Mexico;

(3) The Caribbean Sea;

(4) The Bering Sea;

(5) The Gulf of Alaska; or

(6) Such other similar waters as may be designated by a Coast Guard District Commander.

Cold water means water where the monthly mean low water temperature is normally 15 degrees Celsius (59 degrees Fahrenheit) or less.

Commandant means the Commandant of the U.S. Coast Guard or an authorized representative of the Commandant of the U.S. Coast Guard.

Conflict of interest means a conflict between an individual's or an organization's private interests and the interests of another party they are providing a service to or for, including when acting in a capacity which serves the public good.

Crewmember means crewmember as defined in 46 CFR 16.105.

Deficiency means a failure to meet the minimum requirements of the vessel inspection laws or regulations.

Disabled vessel means a vessel that needs assistance, whether docked, moored, anchored, aground, adrift, or under way, but does not mean a barge or any other vessel not regularly operated under its own power.

Downstreaming means a procedure in which a towing vessel moves downstream with the current in order to approach and land squarely on another object, such as a fleet, a dock, or another tow.

Drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and of all through-hull fittings and appurtenances.

Electronic position fixing device means a navigation receiver that meets the requirements of 33 CFR 164.41.

Engine room means the enclosed space where any main-propulsion engine is located. It comprises all deck levels within that space.

Essential system means a system that is required to ensure a vessel's survivability, maintain safe operation, control the vessel, or to ensure safety of onboard personnel, including:

(1) Systems for:

(i) Detection or suppression of fire;

(ii) Emergency dewatering or ballast management;

(iii) Navigation;

(iv) Internal and external communication;

(v) Vessel control, including propulsion, steering, maneuverability and their vital auxiliaries;

(vi) Emergency evacuation and abandonment;

(vii) Lifesaving; and

(viii) Control of a tow;

(2) Any critical system identified in a SMS compliant with the International Safety Management (ISM) Code requirements of 33 CFR part 96; and

(3) Any other marine engineering system identified in an approved TSMS or identified by the cognizant Officer in Charge, Marine Inspection (OCMI) as essential to the vessel's survival, ability to maintain safe operation, ability to control the vessel, or to ensure the safety of onboard personnel.

Excepted vessel means a towing vessel that is subject to this subchapter but is excepted from certain provisions contained within this subchapter. An excepted vessel is:

(1) Used solely:

(i) Within a limited geographic area, as defined in this section;

(ii) For harbor-assist, as defined in this section; or

(iii) For response to an emergency or a pollution event; or

(2) Excepted by the cognizant OCMI for purposes of some or all of the requirements in §§ 142.315 through 142.330, 143.235, 143.265, and subpart C of part 143 of this subchapter, based

on consideration of those requirements and on reasons submitted by the vessel owner or managing operator as to why the vessel does not need to meet these requirements for the safe operation of the vessel.

Excursion party means a temporary operation not permitted by the vessel's COI. It is typically recreational in nature and 1 day or less in duration.

Existing towing vessel means a towing vessel, subject to inspection under this subchapter, that is not a new towing vessel, as defined in this section.

External audit means an audit conducted by a party with no direct affiliation to the vessel, owner, or managing operator being audited.

External survey program means a survey program conducted by a party with no direct affiliation to the vessel, owner, or managing operator being surveyed.

Fixed fire-extinguishing system means:

(1) A carbon dioxide system that meets the requirements of 46 CFR subpart 76.15 and 46 CFR 78.47–9 and 78.47–11, and that is approved by the Commandant;

(2) A clean agent system that satisfies the requirements in 46 CFR subpart 95.16 and in 46 CFR 97.37–9, and is approved by the Commandant; or

(3) A manually operated, water mist system that satisfies NFPA 750 (incorporated by reference, see § 136.112) and is approved by the Commandant.

Fleeting area means a limited geographic area, as determined by the local COTP, where individual barges are moored or assembled to make a tow. These barges are not in transport, but are temporarily marshaled and waiting for pickup by different towing vessels that will transport them to various destinations.

Galley means a space containing appliances with cooking surfaces that may exceed 121 degrees Celsius (250 degrees Fahrenheit) such as ovens, griddles, and deep fat fryers.

Great Lakes means a route on the waters of any of the Great Lakes and of the St. Lawrence River as far east as a straight line drawn from Cap de Rosiers to West Point, Anticosti Island, and west of a line along the 63rd meridian from Anticosti Island to the north shore of the St. Lawrence River.

Gross tons means the gross ton measurement of the vessel under 46 U.S.C. Chapter 145, Regulatory Measurement. For a vessel measured under only 46 U.S.C. Chapter 143, Convention Measurement, the vessel's gross tonnage measured under 46 U.S.C. Chapter 143 is used to apply all thresholds expressed in terms of gross tons.

Harbor of safe refuge means a port, inlet, or other body of water normally sheltered from heavy seas by land, and in which a vessel can navigate and safely moor. The suitability of a location as a harbor of safe refuge will be determined by the cognizant OCMI, and varies for each vessel, dependent on the vessel's size, maneuverability, and mooring gear.

Harbor-assist means the use of a towing vessel during maneuvers to dock, undock, moor, or unmoor a vessel, or to escort a vessel with limited maneuverability.

Horsepower means the horsepower stated on the vessel's COI, which is the sum of the manufacturer's listed brake horsepower for all installed propulsion engines.

Inland waters means the navigable waters of the United States shoreward of the Boundary Lines as described in 46 CFR part 7, excluding the Great Lakes and, for towing vessels, excluding the Western Rivers.

Internal Audit means an audit that is conducted by a party that has a direct affiliation to the vessel, owner, or managing operator being audited.

Internal survey program means a survey program that is conducted by a party which has a direct affiliation to the vessel, owner, or managing operator being surveyed.

International voyage means a voyage between a country to which the International Convention for Safety of Life at Sea, 1974, as amended (SOLAS) applies and a port outside that country. A country, as used in this definition, includes every territory for the international relations of which a contracting government to the Convention is responsible or for which the United Nations is the administering authority. For the United States, the term "territory" includes the Commonwealth of Puerto Rico, all possessions of the United States, and all lands held by the United States under a protectorate or mandate. For the purposes of this subchapter, vessels are not considered as being on an "international voyage" when solely navigating the Great Lakes and the St. Lawrence River as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd meridian.

Lakes, bays, and sounds means a route on any of the following waters:

(1) A lake other than the Great Lakes.

(2) A bay.

(3) A sound.

(4) Such other similar waters as may be designated by the cognizant Coast Guard District Commander.

Length means the horizontal distance measured from end to end over the deck, excluding the sheer. Fittings and attachments are not included in the length measurement.

Length between perpendiculars or *LBP* means the horizontal distance measured between perpendiculars taken at the forward-most and after-most points on the waterline corresponding to the deepest operating draft. For a vessel that has underwater projections extending forward of the forward-most point or aft of the after-most point on the deepest waterline of the vessel, the Commanding Officer, U.S. Coast Guard Marine Safety Center, may include the length or a portion of the length of the underwater projections in the value used in the LBP for the purposes of this subchapter. The length, or a portion of the length, of projections that contribute more than 2 percent of the underwater volume of the vessel is normally added to the actual LBP.

Limited coastwise means a route that is not more than 20 nautical miles from a harbor of safe refuge, as defined in this section.

Limited geographic area means a local area of operation as determined by the local COTP. This area is usually within a single harbor or port.

Machinery space means any enclosed space that either contains an installed internal combustion engine, machinery, or systems that would raise the ambient temperature above 45 degrees Celsius (113 degrees Fahrenheit) in all environments the vessel operates in.

Major conversion means a conversion of a vessel that:

(1) Substantially changes the dimensions or carrying capacity of the vessel;

(2) Changes the type of the vessel;

(3) Substantially prolongs the life of the vessel; or

(4) Otherwise so changes the vessel that it is essentially a new vessel, as determined by the Commandant.

Major non-conformity means a non-conformity that poses a serious threat to personnel, vessel safety, or the environment, and requires immediate corrective action.

Managing operator means an organization or person, such as the manager or the bareboat charterer of a vessel, who has assumed the responsibility for operation of the vessel from the vessel owner and who, on assuming responsibility, has agreed to take over all the duties and responsibilities imposed by this subchapter.

Nationally recognized testing laboratory or *NRTL* means an organization that the Occupational Safety and Health Administration (OSHA) has recognized as meeting the requirements in 29 CFR 1910.7. These requirements are for the capability, control programs, complete independence, and reporting and complaint-handling procedures to test and certify specific types of products for workplace safety. This means, in part, that an organization must have the necessary capability both as a product safety testing laboratory and as a product certification body to receive OSHA recognition as an NRTL.

New towing vessel means a towing vessel, subject to inspection under this subchapter, that:

(1) Had its keel laid or was at a similar stage of construction on or after July 20, 2017; or

(2) Underwent a major conversion that was initiated on or after July 20, 2017.

Non-conformity means a situation where objective evidence indicates that a specified SMS requirement is not fulfilled.

Objective evidence means quantitative or qualitative information, records, or statements of fact pertaining to safety or to the existence and implementation of an SMS element, which is based on observation, measurement, or testing that can be verified. This may include, but is not limited to, towing gear equipment certificates and maintenance documents, training records, repair records, Coast Guard documents and certificates, surveys, classification society reports, or TPO records.

Oceans means a route that is more than 20 nautical miles offshore on any of the following waters:

(1) Any ocean.

(2) The Gulf of Mexico.

(3) The Caribbean Sea.

(4) The Bering Sea.

(5) The Gulf of Alaska.

(6) Such other similar waters as may be designated by the cognizant Coast Guard District Commander.

Officer in Charge, Marine Inspection or *OCMI* means an officer of the Coast Guard designated as such by the Coast Guard and who, under the direction of the Coast Guard District Commander, is in charge of a marine inspection zone, described in 33 CFR part 3, for the performance of duties with respect to the inspection, enforcement, and administration of vessel safety and navigation laws and regulations. The "cognizant OCMI" is the OCMI who has immediate jurisdiction over a vessel for the purpose of performing these duties.

Officer in charge of a (or the) navigational watch means the same as in 46 CFR 10.107.

Oil or hazardous material in bulk, as used in this subchapter, means that the towing vessel tows, pushes, or hauls alongside a tank barge or barges certificated to carry cargoes under subchapters D or O of this chapter.

Operating station means a steering station on the vessel, or the barge being towed or pushed, from which the vessel is normally navigated.

Owner means the owner of a vessel, as identified on the vessel's certificate of documentation or state registration.

Persons in addition to the crew mean any people onboard the vessel, including passengers, who are not a crewmember.

Policy means a specific statement of principles or a guiding philosophy that demonstrates a clear commitment by management, or a statement of values or intentions that provide a basis for consistent decision making.

Power and lighting circuit means a branch circuit as defined in Article 100 of NFPA's National Electrical Code (NEC) (incorporated by reference, see § 136.112) that serves any essential system, distribution panel, lighting, motor or motor group, or group of receptacles. Where multiple loads are served, the circuit is considered to be the conductor run that will carry the current common to all the loads. "Power limited circuit" conductors under Article 725 of the NEC and "instrumentation" conductors under Article 727 of the NEC are not considered to be power and lighting circuits.

Pressure vessel, fired or unfired, means a closed tank or cylinder containing gas, vapor, or liquid, or a combination thereof, under pressure greater than atmospheric pressure.

Procedure means a specification of a series of actions or operations that must be executed in the same manner in order to uniformly comply with applicable policies.

Protected waters means sheltered waters presenting no special hazards, such as most rivers, harbors, and lakes, and that is not determined to be exposed waters or partially protected waters by the cognizant OCMI.

Propulsor means a device (*e.g.,* propeller or water jet) that imparts force to a column of water in order to propel a vessel, together with any equipment necessary to transmit the power from the propulsion machinery to the device (shafting, gearing, etc.).

Recognized classification society means a classification society recognized by the Coast Guard in accordance with part 8 of this chapter.

Replacement in kind means replacement of equipment or components that have the same technical specifications as the original item and provide the same service. If the replacement item upgrades the system in any way, the change is not a replacement in kind.

Rescue boat means a boat designed to rescue persons in distress and to marshal survival craft.

Rivers means a route on any river, canal, or other similar body of water designated by the cognizant OCMI.

Safety Management System or *SMS* means a structured and documented system that enables personnel involved in vessel operations or management, as identified in the SMS, to effectively implement the safety and environmental protection requirements of this subchapter, and is routinely exercised and audited.

Skiff means a small auxiliary boat carried on board a towing vessel.

Survey means an examination of the vessel, including its systems and equipment, to verify compliance with applicable regulations, statutes, conventions, and treaties.

Terminal gear means the additional equipment or appurtenances at either end of the hawser or tow cable that connects the towing vessel and its tow together. Terminal gear may include such items as winches, thimbles, chafing gear, shackles, pendants, or bridles.

Third-party organization or *TPO* means an organization approved by the Coast Guard to conduct independent verifications to assess whether towing vessels or their TSMSs comply with applicable requirements contained in this subchapter.

Tow means the barge(s), vessel(s), or object(s) being pulled, pushed, or hauled alongside a towing vessel.

Towing vessel means a commercial vessel engaged in or intending to engage in the service of pulling, pushing, or hauling alongside, or any combination of pulling, pushing, or hauling alongside.

Towing Safety Management System or *TSMS* means an SMS for a towing vessel as described in part 138 of this subchapter.

Towing vessel record or *TVR* means a book, notebook, or electronic record used to document events as required by this subchapter.

Unsafe condition means a major non-conformity observed on board a vessel, or an incident that would cause the owner or managing operator to request a permit to proceed from the Coast Guard.

Unsafe practice means a habitual or customary action or method, or a single action, that creates a significant risk of harm to life, property, or the marine environment, or that contravenes a recognized standard of care contained in law; regulation; applicable international convention; or international, national, or industry consensus standard.

Warm water means water where the monthly mean low water temperature is normally more than 15 degrees Celsius (59 degrees Fahrenheit).

Western Rivers means the Mississippi River, its tributaries, South Pass, and Southwest Pass, to the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States, and the Port Allen-Morgan City Alternate Route, and that part of the Atchafalaya River above its junction with the Port Allen-Morgan City Alternate Route including the Old River and the Red River, and those waters specified in 33 CFR 89.25 and 89.27, and such other, similar waters as are designated by the COTP.

Workboat means a vessel that pushes, pulls, or hauls alongside within a worksite.

Worksite means an area specified by the cognizant OCMI within which workboats are operated over short distances for moving equipment in support of dredging, construction, maintenance, or repair work. A worksite may include shipyards, owner's yards, or lay-down areas used by marine construction projects. This definition does not include the movement of barges carrying oil or hazardous material in bulk.

Work space means any area on the vessel where the crew may be present while on duty and performing their assigned tasks.

§ 136.112 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish a document in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federalregulations/ibr_locations.html.*

(b) American Boat and Yacht Council (ABYC), 613 Third Street, Suite 10, Annapolis, MD 21403, 410–990–4460, *http://www.abycinc.org/.*

(1) E–11 (2003)—AC and DC Electrical Systems on Boats, dated July 2003, IBR approved for § 143.520(a) of this subchapter.

(2) H–2 (2000)—Ventilation of Boats Using Gasoline, dated July 2000, IBR approved for § 143.520(a) of this subchapter.

(3) H–22 (2005)—Electric Bilge Pump Systems, dated July 2005, IBR approved for § 143.520(a) of this subchapter.

(4) H–24 (2007)—Gasoline Fuel Systems, dated July 2007, IBR approved for § 143.520(a) of this subchapter.

(5) H–25 (2003)—Portable Gasoline Fuel Systems, reaffirmed July 2003, IBR approved for §§ 143.265(b) and 143.520(a) of this subchapter.

(6) H–32 (2004)—Ventilation of Boats Using Diesel Fuel, dated July 2004, IBR approved for § 143.520(a) of this subchapter.

(7) H–33 (2005)—Diesel Fuel Systems, dated July 2005, IBR approved for §§ 143.265(e) and 143.520(a) of this subchapter.

(8) P–1 (2002)—Installation of Exhaust Systems for Propulsion and Auxiliary Engines, dated July 2002, IBR approved for §§ 143.520(a) and 144.415 of this subchapter.

(9) P–4 (2004)—Marine Inboard Engines and Transmissions, dated July 2004, IBR approved for § 143.520(a) of this subchapter.

(c) American Bureau of Shipping (ABS), ABS Plaza, 16855 Northchase Drive, Houston, TX 77060, 281–877–5800, *http://www.eagle.org.*

(1) Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways, 2007, IBR approved for §§ 143.515(a), 143.540(b), 143.550(a), 143.580(b), and 144.205(a) of this subchapter.

(2) Rules for Building and Classing Steel Vessels Under 90 Meters (295 Feet) in Length, 2006, including Supplement to Part 1 (dated January 1, 2008) and Corrigenda Notices 1 to 13 (in effect as of July 1, 2010), IBR approved for §§ 143.515(a), 143.540(a), 143.545(b), 143.550(a), 143.555(b), 143.580(a), 143.600, and 144.205(a) of this subchapter.

(d) American Society for Quality (ASQ), Quality Press, P.O. Box 3005, Milwaukee, WI 53201–3005, 800–248–1946, *http://asq.org/.*

(1) ANSI/ISO/ASQ Q9001–2000, Quality management systems—Requirements, approved December 13, 2000, IBR approved for §§ 138.310(d), 139.120(d) and 139.130(b) of this subchapter.

(2) [Reserved]

(e) FM Approvals, P.O. Box 9102, Norwood, MA 02062, 781–440–8000, *http://www.fmglobal.com/.*

(1) Approval Standard for Storage Cabinets (Flammable and Combustible liquids), Class Number 6050 (Standard 6050), dated December 1996, IBR approved for § 142.225(c) of this subchapter.

(2) [Reserved]

(f) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *http://www.imo.org/.*

(1) Resolution A.520(13)—Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-saving Appliances and Arrangements, adopted November 17, 1983, IBR approved for § 141.225(c) of this subchapter.

(2) Resolution A.658(16)—Use and Fitting of Retro-Reflective Materials on Life-saving Appliances, adopted October 19, 1989, IBR approved for § 141.340(f) of this subchapter.

(3) Resolution A.688(17)—Fire Test Procedures For Ignitability of Bedding Components, adopted November 6, 1991, IBR approved for § 144.430(b) of this subchapter.

(4) Resolution A.760(18)—Symbols Related to Life-Saving Appliances and Arrangements, adopted November 4, 1993, IBR approved for § 141.340(h) of this subchapter.

(5) International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), Consolidated Edition (including Erratum), 2009, IBR approved for §§ 136.115(b), 141.105(b) and (c), and 142.205(a) of this subchapter.

(g) International Organization for Standardization (ISO), Case Postal 56, CH–1211 Geneva 20, Switzerland, +41 22 749 01 11, *http://www.iso.org/.*

(1) ISO 9001:2008(E)—International Standard: Quality management systems—Requirements, Fourth edition, dated November 15, 2008 (corrected version dated July 15, 2009), IBR approved for §§ 138.310(d) and 139.130(b) of this subchapter.

(2) ISO 14726:2008(E)—International Standard: Ships and marine technology-Identification colours for the content of piping systems, First edition, dated May 1, 2008, IBR approved for § 143.250(e) of this subchapter.

(h) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169, 800–344–3555, *http://www.nfpa.org/*.

(1) NFPA 10—Standard for Portable Fire Extinguishers, 2007 Edition, effective August 17, 2006, IBR approved for § 142.240(a) of this subchapter.

(2) NFPA 70—National Electrical Code (NEC), 2002 Edition, effective August 2, 2001, IBR approved for §§ 136.110, 143.555(b), and 143.565(b) of this subchapter.

(3) NFPA 302—Fire Protection Standard for Pleasure and Commercial Motor Craft, 1998 Edition, IBR approved for §§ 143.265(e) and 144.415 of this subchapter.

(4) NFPA 306—Standard for the Control of Gas Hazards on Vessels, 2014 Edition, effective June 17, 2013, IBR approved for § 140.665(a) of this subchapter.

(5) NFPA 750—Standard on Water Mist Fire Protection Systems, 2006 Edition, effective February 16, 2006, IBR approved for § 136.110.

(6) NFPA 1971—Standard on Protective Ensembles for Structural Fire-Fighting and Proximity Fire-Fighting, 2007 Edition, effective August 17, 2006, IBR approved for § 142.226(a) of this subchapter.

(i) Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096, 724–776–4841, *http://www.sae.org/*.

(1) ANSI/SAE Z 26.1–1996, American National Standard for Safety Glazing Materials for Glazing Motor Vehicles and Motor Vehicle Equipment Operating on Land Highways—Safety Standard, approved August 11, 1997, IBR approved for § 144.905(e) of this subchapter.

(2) SAE J1475 Revised JUN96—Hydraulic Hose Fitting for Marine Applications, revised June 1996, IBR approved for § 143.265(d) of this subchapter.

(3) SAE J1942 Revised APR2007—Hose and Hose Assemblies for Marine Applications, revised April 2007, IBR approved for § 143.265(d) of this subchapter.

(j) UL (formerly Underwriters Laboratories, Inc.), 12 Laboratory Drive, Research Triangle Park, NC 27709, 919–549–1400, *http://www.ul.com/*.

(1) UL 217—Standard for Safety for Single and Multiple Station Smoke Alarms, Sixth Edition, dated August 25, 2006 (including revisions through November 20, 2012), IBR approved for § 142.330(b) of this subchapter.

(2) UL 1104—Standards for Safety for Marine Navigation Lights, Second Edition, dated October 29, 1998, IBR approved for § 143.415(a) of this subchapter.

(3) UL 1275—Standard for Safety for Flammable Liquid Storage Cabinets, Third Edition, dated June 30, 2005 (including revisions through February 26, 2010), IBR approved for § 142.225(c) of this subchapter.

§ 136.115 Equivalents.

(a) The Coast Guard may approve any arrangement, fitting, appliance, apparatus, equipment, calculation, information, or test that provides a level of safety equivalent to that established by any specific provision of this subchapter. Submit requests for approval to the Coast Guard via the cognizant OCMI. The Marine Safety Center may require engineering evaluations and tests to verify the equivalence.

(b) The Coast Guard may accept compliance with the provisions of SOLAS applicable to the vessel's size and route (incorporated by reference, see § 136.112), as an equivalent to specific requirements of this subchapter. Submit requests for a determination of equivalency for a particular vessel to the Coast Guard via the cognizant OCMI.

(c) Alternative compliance arrangement provisions related to SMSs are contained in § 138.225 of this subchapter.

(d) Alternate compliance arrangements must be documented within the TSMS applicable to the vessel.

§ 136.120 Special consideration.

Based on a review of relevant information and on the TSMS applicable to the vessel, the cognizant OCMI who issues the COI may give special consideration to authorizing departures from specific requirements, when unusual circumstances or arrangements warrant such departures and when an equivalent level of safety is provided.

§ 136.130 Options for documenting compliance to obtain a Certificate of Inspection.

(a) There are two options for documenting compliance with the requirements in this subchapter to obtain a COI:

(1) The Coast Guard option, in which all inspections of the towing vessel are conducted by the Coast Guard, as discussed in § 136.210 and parts 137 and 140 through 144 of this subchapter; or

(2) The TSMS option, as discussed in § 136.210, and in parts 137 through 144 of this subchapter.

(b) Regardless of the option chosen, the Coast Guard is responsible for issuing a towing vessel COI, and may board a vessel at any time to verify compliance and take appropriate action.

(c) An owner or managing operator choosing the Coast Guard option may use a management system, vessel operations manual, towing vessel record (TVR), or logbook to meet this subchapter's recordkeeping requirements.

(d) When submitting an application for inspection, the owner or managing operator must specify on the application which option he or she chooses for each particular towing vessel. Owners or managing operators may choose different options for the individual vessels within their fleets.

(e) Requests to change options during the period of validity of an existing COI must be accompanied by an application to the OCMI for a new COI. If the requirements for the new option are met, the OCMI will issue the vessel a new COI.

§ 136.172 Temporary compliance for existing towing vessels.

An existing towing vessel subject to this subchapter will remain subject to Coast Guard regulations applicable to the vessel on July 19, 2016 until either July 20, 2018 or the date the vessel obtains a COI, whichever date is earlier.

§ 136.175 Approved equipment.

Where equipment in this subchapter is required to be of an approved type, such equipment requires the specific approval of the Coast Guard. A list of approved equipment and materials may be found online at *http://cgmix.uscg.mil/Equipment/EquipmentSearch.aspx*. Any OCMI may be contacted for information concerning approved equipment and materials.

§ 136.180 Appeals.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal in accordance with 46 CFR 1.03.

Subpart B—Certificate of Inspection

§ 136.200 Certificate required.

(a) A towing vessel may not be operated without having onboard a valid COI issued by the Coast Guard as required by § 136.202.

(b) Each towing vessel certificated under the provisions of this subchapter must be in full compliance with the terms of the COI.

(c) If necessary to prevent the delay of the vessel, the Coast Guard may issue a temporary COI to a towing vessel, pending the issuance and delivery of the permanent COI. The temporary COI must be carried in the same manner as the regular COI and is equivalent to the permanent COI that it represents.

(d) A towing vessel on a foreign voyage between a port in the United States and a port in a foreign country whose COI expires during the voyage may lawfully complete the voyage without a valid COI, provided the voyage is completed within 30 days of expiration, and provided that the COI did not expire within 15 days of sailing on the foreign voyage from a U.S. port.

§ 136.202 Certificate of inspection phase-in period.

(a) All owners or managing operators of more than one existing towing vessel required to have a COI by this subchapter must ensure that each existing towing vessel under their ownership or control is issued a valid COI according to the following schedule:

(1) By July 22, 2019, at least 25 percent of the towing vessels must have valid COIs on board;

(2) By July 20, 2020, at least 50 percent of the towing vessels must have valid COIs on board;

(3) By July 19, 2021, at least 75 percent of the towing vessels must have valid COIs on board; and

(4) By July 19, 2022, 100 percent of the towing vessels must have valid COIs on board.

(b) All owners or managing operators of only one existing towing vessel required to have a COI by this subchapter must ensure the vessel has an onboard, valid COI by July 20, 2020.

(c) A new towing vessel must obtain a COI before it enters into service.

§ 136.205 Description.

A towing vessel's COI describes the vessel, routes that it may travel, minimum manning requirements and total persons allowed onboard, safety equipment and appliances required to be onboard, horsepower, and other information pertinent to the vessel's operations as determined by the OCMI.

§ 136.210 Obtaining or renewing a COI.

Owners and managing operators must submit Form CG–3752, "Application for Inspection of U.S. Vessel," to the cognizant OCMI where the inspection will take place. The owner or managing operator must submit the application at least 30 days before the vessel will undergo the initial inspection for certification. The owner or managing operator must schedule an inspection for this initial certification with the cognizant OCMI at least 3 months before the vessel is to undergo the inspection for certification.

(a) In addition to Form CG–3752, the owner or managing operator must submit:

(1) For initial certification:

(i) Vessel particular information; and

(ii) Number of persons in addition to the crew, if requested; or

(2) For a renewal of certification:

(i) Any changes to the information in paragraph (a)(1) of this section; and

(ii) A description of any modifications to the vessel.

(b) In addition to Form CG–3752 and the requirements of paragraph (a) of this section, the owner or managing operator of vessels utilizing the TSMS option must submit:

(1) Objective evidence that the owner or managing operator and the vessel are in compliance with the TSMS requirements in part 138 of this subchapter; and

(2) Objective evidence that the vessel's structure, stability, and essential systems comply with the applicable requirements of this subchapter for the intended route and service. This objective evidence may be in the form of a survey report issued by a TPO or another form acceptable to the Coast Guard.

§ 136.212 Inspection for certification.

(a) *Frequency of inspections.* After a towing vessel receives its initial COI, the OCMI will inspect a towing vessel subject to this subchapter located in his or her jurisdiction at least once every 5 years. The OCMI must ensure that every towing vessel is of a structure suitable for its intended route. If the OCMI deems it necessary, he or she may direct the vessel to get underway, and may adopt any other suitable means to test the towing vessel and its equipment.

(b) *Nature of inspection.* The inspection will ensure that the vessel is in satisfactory condition and fit for the service for which it is intended, and that it complies with the applicable statutes and regulations for such vessels. The inspection will include inspections of the structure, pressure vessels and their appurtenances, piping, main and auxiliary machinery, electrical installations, lifesaving appliances, fire detecting and extinguishing equipment, pilot boarding equipment, and other equipment. The inspection will also determine that the vessel is in possession of any valid certificates or licenses issued by the Federal Communications Commission, if required. The inspection will also include an examination of the vessel's lights, means of making sound signals and distress signals, and pollution prevention systems and procedures.

(c) *Time of issuance of COI.* The OCMI will issue a vessel a new COI after the vessel successfully completes the inspection for certification.

§ 136.215 Period of validity.

(a) A COI for a towing vessel is valid for 5 years from the date of issue.

(b) For a towing vessel utilizing the TSMS option, the COI is invalid upon the expiration or revocation of the owner or managing operator TSMS certificate or the ISM Code Certificate.

(c) A COI may be suspended and withdrawn or revoked by the cognizant Officer in Charge, Marine Inspection at any time for noncompliance with the requirements of this subchapter.

§ 136.220 Posting.

(a) The original COI must be framed under glass or other transparent material and posted in a conspicuous place onboard the towing vessel.

(b) If posting is impracticable, the COI must be kept on board in a weathertight container and must be readily available.

§ 136.230 Routes permitted.

(a) The area of operation for each towing vessel and any necessary operational limits are determined by the cognizant OCMI and recorded on the vessel's COI. Each area of operation, referred to as a route, is described on the COI under the major headings "Oceans," "Coastwise," "Limited Coastwise," "Great Lakes," "Lakes, Bays, and Sounds," or "Rivers," as applicable. Additional limitations imposed or extensions granted are described by reference to bodies of waters, geographical points, distances from geographical points, distances from land, depths of channel, seasonal limitations, and similar factors.

(b) Operation of a towing vessel on a route of lesser severity than those specifically described or designated on the COI is permitted, unless the route is expressly prohibited on the COI. The general order of decreasing severity of routes is: Oceans; coastwise; limited coastwise; Great Lakes; lakes, bays, and sounds; and rivers. The cognizant OCMI may prohibit a vessel from operating on a route of lesser severity than the primary route on which a vessel is authorized to operate, if local conditions necessitate such a restriction.

(c) When designating a permitted route or imposing any operational limits on a towing vessel, the cognizant OCMI may consider:

(1) The route-specific requirements of this subchapter;

(2) The performance capabilities of the vessel based on design, scantlings, stability, subdivision, propulsion,

speed, operating modes, maneuverability, and other characteristics;

(3) The suitability of the vessel for nighttime operations and use in all weather conditions;

(4) Vessel operations in globally remote areas or severe environments not covered by this subchapter. Such areas may include, but are not limited to, polar regions, remote islands, areas of extreme weather, or other remote areas where timely emergency assistance cannot be anticipated; and

(5) The TSMS applicable to the vessel, if the vessel has one.

§ 136.235 Certificate of inspection amendment.

(a) An amended COI may be issued at any time by the cognizant OCMI. The amended COI replaces the original, but the expiration date remains the same as that of the original. An amended COI may be issued to authorize and record a change in the dimensions, gross tonnage, owner, managing operator, manning, persons permitted, route permitted, conditions of operations, or equipment of a towing vessel, from that specified in the current COI.

(b) The owner or managing operator of the towing vessel must make a request for an amended COI to the cognizant OCMI any time there is a change in the character of the vessel or in its route, equipment, ownership, operation, or similar factors specified in its current COI. The OCMI may need to conduct an inspection before issuing an amended COI.

(c) For those vessels selecting the TSMS option, the owner or managing operator of the towing vessel must provide to the OCMI objective evidence of compliance with the requirements in this subchapter prior to the issuance of an amended COI. The evidence must:

(1) Be from a TPO and prepared in accordance with parts 138 and 139 of this subchapter; and

(2) Consider the change in the character of a vessel or in its route, equipment, ownership, operation, or similar factors specified in the vessel's current COI.

§ 136.240 Permit to proceed.

Permission to proceed to another port for repairs (Form CG–948) may be required for a towing vessel that is no longer in compliance with its COI. This permission may be necessary in certain situations, including damage to the vessel, failure of an essential system, or failure to comply with a regulation, including failure to comply with the TSMS requirements, if appropriate.

(a) *What a vessel with a TSMS must do before proceeding to another port for repairs.* A vessel with a TSMS may proceed to another port for repair, if:

(1) In the judgment of the owner, managing operator, or master, the trip can be completed safely;

(2) The TSMS addresses the condition of the vessel that has resulted in non-compliance and the necessary conditions under which the vessel may safely proceed to another port for repair;

(3) The vessel proceeds as provided in the TSMS and does not tow while proceeding, unless the owner or managing operator determines that it is safe to do so; and

(4) The owner or managing operator notifies the cognizant OCMI in whose zone the non-compliance occurred or is discovered, before the vessel proceeds. The owner or operator must also notify the cognizant OCMI in any other OCMI zones through which the vessel will transit.

(b) *What another vessel must do before proceeding to another port for repairs.* If a vessel does not have a TSMS, or a vessel has one but it does not address the condition of the vessel that has resulted in non-compliance or the necessary conditions under which the vessel may safely proceed to another port for repair, the owner, managing operator, or master must request permission to proceed from the cognizant OCMI in whose zone the non-compliance occurs or is discovered. This permission operates as follows:

(1) The request for permission to proceed may be made electronically, in writing, or orally. The cognizant OCMI may require a written description, a damage survey, or other documentation to assist in determining the nature and seriousness of the non-compliance.

(2) The vessel will not engage in towing, unless the cognizant OCMI determines it is safe to do so.

(3) The Coast Guard may issue the permit either on Form CG–948, "Permit to Proceed to Another Port for Repairs," or in letter form, and will state the conditions under which the vessel may proceed to another port for repair.

(c) *Inspection or examination.* The cognizant OCMI may require an inspection of the vessel by a Coast Guard Marine Inspector or an examination by a surveyor from a TPO prior to the vessel proceeding.

§ 136.245 Permit to carry excursion party or temporary extension or alteration of route.

(a) A towing vessel must obtain approval to engage in an excursion prior to carrying a greater number of persons than permitted by the COI, or to temporarily extend or alter its area of operation.

(b) For a vessel utilizing the TSMS option, the vessel may engage in an excursion, if:

(1) In the opinion of the owner, managing operator, or master the operation can be undertaken safely;

(2) The TSMS addresses the temporary excursion operation contemplated; the necessary conditions under which the vessel may safely conduct the operation, including the number of persons the vessel may carry; the crew required; and any additional lifesaving or safety equipment required;

(3) The vessel proceeds as provided in the TSMS; and

(4) The owner, managing operator, or master notifies the cognizant OCMI at least 48 hours prior to the temporary excursion operation. The cognizant OCMI may require submission of pertinent provisions of the TSMS applicable to the vessel for review and onboard verification of compliance. If the cognizant OCMI has reasonable cause to believe that the TSMS applicable to the vessel is insufficient for the intended excursion, additional information may be requested and/or additional requirements may be imposed.

(c) If the towing vessel is not under a TSMS, or the TSMS applicable to the vessel does not address the temporary excursion operation:

(1) The owner or managing operator must submit an application to the cognizant OCMI. The application must state the intended route, number of passengers or guests, and any other conditions applicable to the excursion that exceed those specified in its COI.

(2) The cognizant OCMI may issue the permit either on Form CG–949, "Permit To Carry Excursion Party," or in letter form. The cognizant OCMI will indicate on the permit the conditions under which it is issued, the number of persons the vessel may carry, the crew required, any additional lifesaving or safety equipment required, the route for which the permit is granted, and the dates on which the permit is valid. The application may be made electronically, in writing, or orally.

(3) The vessel may not engage in towing during the excursion, unless the cognizant OCMI determines it is safe to do so.

(d) The cognizant OCMI may require an inspection of the vessel by a Coast Guard Marine Inspector or an examination by a surveyor from a TPO prior to the vessel proceeding.

§ 136.250 Load lines.

Vessels described in Table 136.250 of this section that operate on the Great Lakes or outside the Boundary Lines, as set forth in 46 CFR part 7, are subject to load line requirements in subchapter E of this chapter in the following circumstances:

TABLE 136.250

A vessel that—	Is subject to load line requirements in subchapter E of this chapter if it is—
(a) Is on an international voyage—	(1) Seventy nine (79) feet (24 meters) or more in length and built on or after July 21, 1968; or (2) One hundred and fifty (150) gross tons or more if built before July 21, 1968.
(b) Is on a domestic voyage—	(1) Seventy nine (79) feet (24 meters) or more in length and built on or after January 1, 1986; or (2) One hundred and fifty (150) gross tons or more if built before January 1, 1986.

PART 137—VESSEL COMPLIANCE

Sec.

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Authority: 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; DHS Delegation 0170.1.

Subpart A—General

§ 137.100 Purpose.

This part describes the procedures owners or managing operators of towing vessels must use to demonstrate compliance with the requirements of this subchapter.

§ 137.120 Responsibility for compliance.

(a) The owner and managing operator must ensure that the towing vessel is in compliance with this subchapter and other applicable laws and regulations at all times.

(b) Non-conformities and deficiencies must be corrected in a timely manner.

§ 137.130 Program for vessel compliance for the Towing Safety Management System (TSMS) option.

The owner or managing operator of a towing vessel choosing to use the TSMS option must implement an external or internal survey program for vessel compliance. The program for vessel compliance can be either:

(a) An external survey program, in which the owner or managing operator would have a third-party organization (TPO) conduct either the surveys required by § 137.205, the examinations required by § 137.310, or both; or

(b) An internal survey program, in which the owner or managing operator would conduct either the surveys required by § 137.210, the examinations required by § 137.315, or both, using internal resources or contracted surveyors. The internal survey program would be conducted with the oversight of a TPO.

(c) Each program of either type must include:

(1) Owner or managing operator policy regarding the surveying and examination of towing vessels;

(2) Procedures for conducting towing vessel surveys and examinations, as described in this part;

(3) Procedures for reporting and correcting non-conformities and deficiencies;

(4) Identification of the individual or individuals responsible for the management of the program, and their qualifications; and

(5) Documentation of compliance activities.

§ 137.135 Reports and documentation required for the TSMS option.

(a) The TSMS option requires a report detailing each internal survey of a towing vessel. Each report must include:

(1) Vessel name;

(2) Other vessel identifier, such as an official number or State number;

(3) Name and business address of owner or managing operator;

(4) Date and location of the survey;

(5) Date the report of the survey was issued, if different than the date the survey was concluded;

(6) Name of the surveyors;

(7) Name and business address of the TPO the surveyors represent, if applicable;

(8) Signatures of surveyors;

(9) A descriptive list of the items examined or witnessed during each survey;

(10) A descriptive list of all non-conformities identified during each survey, including those that were corrected during the course of the survey;

(11) A descriptive list of:

(i) All non-conformities remaining at the end of each survey;

(ii) The required corrective actions;

(iii) The latest date of required corrective action; and

(iv) A description of the means by which the corrective actions were verified;

(12) A descriptive list of items that need to be repaired or replaced before the vessel continues service; and

(13) A statement that the vessel complies with the applicable requirements of this subchapter and is fit for its route and service, subject to the correction of non-conformities.

(b) The owner or managing operator must provide objective evidence of compliance with this part in accordance with the TSMS applicable to the vessel.

Subpart B—Inspections and Surveys for Certification

§ 137.200 Documenting compliance for the Coast Guard inspection option.

A towing vessel subject to this subchapter and choosing the Coast Guard inspection option, or required to have the Coast Guard inspection option, must undergo an annual inspection within 3 months before or after the COI anniversary date.

(a) Owners and managing operators must contact the cognizant Officer in

Charge, Marine Inspection (OCMI) to schedule an inspection at a time and place the OCMI approves. No written application is required.

(b) Annual inspections will be similar to the inspection for certification but will cover less detail unless the marine inspector finds deficiencies or determines that a major change has occurred since the last inspection. If the marine inspector finds deficiencies or finds that a major change to the vessel has occurred, he or she will conduct a more detailed inspection to ensure that the vessel is in satisfactory condition and fit for the service for which it is intended. If the vessel passes the annual inspection, the Coast Guard will endorse the vessel's current Certificate of Inspection (COI).

(c) If the annual inspection reveals the need, the owner or managing operator must make any or all repairs or improvements within the time period specified by the OCMI. The OCMI may use Form CG–835, "Notice of Merchant Marine Inspection Requirements," to record deficiencies discovered during the inspection. The OCMI will then give a copy of the completed form to the master of the vessel.

(d) Nothing in this subpart limits the marine inspector from conducting any tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness or fitness for its route and service.

§ 137.202 Documenting compliance for the TSMS option.

The owner or managing operator of a towing vessel that chooses the TSMS option for a towing vessel must document compliance with this subpart as follows:

(a) Prior to obtaining the vessel's initial COI, the owner or managing operator must provide a report to the Coast Guard of a survey as described in § 137.215 that demonstrates that the vessel complies the requirements of this part.

(b) For the re-issuance of the vessel's COI, the owner or managing operator must:

(1) Provide objective evidence of an external survey program as described in § 137.205; or

(2) Provide objective evidence of an internal survey program as described in § 137.210.

§ 137.205 External survey program.

(a) The owner or managing operator of a towing vessel that has selected the TSMS option and who has chosen to demonstrate compliance through an external survey program must:

(1) Have the vessel surveyed annually by a surveyor from a TPO;

(2) Ensure the survey is conducted in accordance with § 137.215;

(3) Ensure the survey is conducted within 3 months of the anniversary date of the COI;

(4) Ensure the TSMS applicable to the vessel includes policies and procedures for complying with this section; and

(5) Make the applicable sections of the TSMS available to the surveyor.

(b) The TPO must issue a report that meets the requirements in § 137.135.

§ 137.210 Internal survey program.

(a) The owner or managing operator of a towing vessel that has selected the TSMS option and who has chosen to demonstrate vessel compliance through an internal survey program must ensure that the TSMS applicable to the vessel includes:

(1) Procedures for surveying and testing described in § 137.215;

(2) Equipment, systems, and onboard procedures to be surveyed;

(3) Identification of items that would need repair or replacement before the vessel could continue in service, such as deficiencies identified on Form CG–835, "Notice of Merchant Marine Inspection Requirements," noted survey deficiencies, non-conformities, or other corrective action reports;

(4) Procedures for documenting and reporting non-conformities and deficiencies;

(5) Procedures for reporting and correcting major non-conformities;

(6) The responsible person or persons in management who have the authority to:

(i) Stop all vessel operations pending the correction of non-conformities and deficiencies;

(ii) Oversee vessel compliance activities; and

(iii) Track and verify that non-conformities and deficiencies were corrected;

(7) Procedures for recordkeeping; and

(8) Procedures for assigning personnel with requisite experience and expertise to carry out the elements of the survey.

(b) The owner or managing operator is not required to survey the items as described in § 137.220 as one event, but may survey items on a schedule over time, provided that the interval between successive surveys of any item does not exceed 1 year, unless otherwise prescribed.

§ 137.212 Coast Guard oversight of vessel survey program for vessels under the TSMS option.

If the cognizant OCMI has reasonable cause to believe that a vessel's survey program is deficient, that OCMI may:

(a) Require an audit or survey of the vessel in the presence of a representative of the cognizant OCMI;

(b) Increase the frequency of the audits;

(c) For vessels under the internal survey program, require that the vessel comply with the external survey program requirements of § 137.205;

(d) Require any other specific action within his or her authority that he or she considers appropriate; or

(e) For repeatedly deficient surveys, remove the vessel and or owner or managing operator from using the TSMS option.

§ 137.215 General conduct of survey.

(a) When conducting a survey of a towing vessel as required by this subpart, the surveyor must determine that the item or system functions as designed, is free of defects or modifications that reduce its effectiveness, is suitable for the service intended, and functions safely in a manner consistent for vessel type, service and route.

(b) The survey must address the items in § 137.220 as applicable, and must include:

(1) A review of certificates and documentation held on the vessel;

(2) A visual examination and tests of the vessel and its equipment and systems in order to confirm that their condition is properly maintained and that proper quantities are onboard;

(3) A visual examination of the systems used in support of drills or training to determine that the equipment utilized during a drill operates as intended; and

(4) A visual examination to confirm that unapproved modifications were not made to the vessel or its equipment.

(c) Beyond the minimum standards required by this section, the thoroughness and stringency of the survey will depend upon the condition of the vessel and its equipment. If a surveyor finds a vessel to have multiple deficiencies indicative of systematic failures to maintain the installed equipment, he or she will conduct an expanded examination to ensure all deficiencies are identified and corrective action is promptly taken.

(d) The owner or managing operator must notify the cognizant OCMI when the condition of the vessel, its equipment, systems, or operations, create an unsafe condition.

(e) The cognizant OCMI may require that the owner or managing operator provide for the attendance of a surveyor or auditor from a TPO to assist with verifying compliance with this part.

§ 137.220 Scope.

The owner or managing operator of a towing vessel that has selected the TSMS option must examine or must have examined the following systems, equipment, and procedures to ensure that the vessel and its equipment are suitable for the service for which the vessel is certificated:

(a) *TSMS.* (1) Verify that the vessel is enrolled in a TSMS that complies with part 138 of this subchapter.

(2) Verify that the policies and procedures applicable to the vessel are available to the crew.

(3) Verify that internal and external audits are conducted in accordance with the approved TSMS.

(4) Verify that recordkeeping requirements are met.

(b) *Hull structure and appurtenances.* Verify that the vessel complies with part 144 of this subchapter, examine the condition of, and where appropriate, witness the operation of the following:

(1) All accessible parts of the exterior and interior of the hull, the watertight bulkheads, and weather decks.

(2) All watertight closures in the hull, decks, and bulkheads, including through hull fittings and sea valves.

(3) Superstructure, masts, and similar arrangements constructed on the hull.

(4) Railings and bulwarks and their attachments to the hull structure.

(5) The presence of appropriate guards or rails.

(6) All weathertight closures above the weather deck and the provisions for drainage of sea water from the exposed decks.

(7) Watertight doors, verifying local and remote operation and proper fit.

(8) All accessible interior spaces to ensure that they are adequately ventilated and drained, and that means of escape are maintained and operate as intended.

(9) Vessel markings.

(c) *Machinery, fuel, and piping systems.* Verify that the vessel complies with applicable requirements contained in part 143 of this subchapter, examine the condition of, and where appropriate, witness the operation of:

(1) Engine control mechanisms, including primary and alternate means, if the vessel is equipped with alternate means, of starting machinery, directional controls, and emergency shutdowns;

(2) All machinery essential to the routine operation of the vessel, including generators and cooling systems;

(3) All fuel systems, including fuel tanks, tank vents, piping, and pipe fittings;

(4) All valves in fuel lines, including local and remote operation;

(5) All overboard discharge and intake valves and watertight bulkhead pipe penetration valves;

(6) Means provided for pumping bilges; and

(7) Machinery shut-downs and alarms.

(d) *Steering systems.* Examine the condition of, and where appropriate, witness the operation of:

(1) Steering systems and equipment ensuring smooth operation;

(2) Auxiliary means of steering, if installed; and

(3) Alarms.

(e) *Pressure vessels and boilers.* Verify that the vessel complies with applicable requirements in part 143 of this subchapter.

(f) *Electrical.* Verify that the vessel complies with applicable requirements in part 143 of this subchapter, examine the condition of, and where appropriate, witness the operation of:

(1) All cables, as far as practicable, without undue disturbance of the cable or electrical apparatus;

(2) Circuit breakers, including testing by manual operation;

(3) Fuses, including ensuring the ratings of fuses are suitable for the service intended;

(4) All generators, motors, lighting fixtures, and circuit interrupting devices;

(5) Batteries including security of stowage;

(6) Electrical equipment, which operates as part of or in conjunction with a fire detection or alarm system installed onboard, to ensure operation in case of fire; and

(7) All emergency electrical systems, including any automatic systems if installed.

(g) *Lifesaving.* Verify that the vessel complies with applicable requirements contained in part 141 of this subchapter and examine the condition of lifesaving equipment and systems as follows:

(1) Verify that the vessel is equipped with the required number of lifejackets, work vests, and immersion suits.

(2) Verify the serviceable condition of each lifejacket, work vest, and marine buoyant device.

(3) Verify that each item of lifesaving equipment found to be defective has been repaired or replaced.

(4) Verify that each lifejacket, other personal floatation device, or other lifesaving device found to be defective and incapable of repair was destroyed or removed.

(5) Verify that each piece of expired lifesaving equipment has been replaced.

(6) Examine each survival craft and launching appliance in accordance with subchapter W of this chapter.

(7) Verify the servicing of each inflatable liferaft, inflatable buoyant apparatus, and inflatable lifejacket as required by subchapter W of this chapter.

(8) Verify the proper servicing of each hydrostatic release unit, other than a disposable hydrostatic release unit, as required under subchapter W of this chapter.

(9) Verify that the vessel's crew conducted abandon ship and man overboard drills under simulated emergency conditions.

(h) *Fire protection.* Verify that the vessel complies with applicable requirements contained in part 142 of this subchapter, and examine or verify the fire protection equipment and systems as follows:

(1) Verify that the vessel is equipped with the required fire protection equipment for the vessel's route and service.

(2) Verify that the inspection, testing, and maintenance as required by § 142.240 of this subchapter are performed.

(3) Verify that the training requirements of § 142.245 of this subchapter are carried out.

(i) *Towing gear.* Verify that the vessel complies with the applicable requirements in parts 140 of this subchapter, and examine or verify the condition of, and where appropriate, the operation of the following:

(1) Deck machinery including controls, guards, alarms and safety features.

(2) Hawsers, wires, bridles, push gear, and related vessel fittings for damage or wear.

(3) Verify that the vessel complies with 33 CFR part 164, if applicable.

(j) *Navigation equipment.* Verify that the vessel complies with the applicable requirements in part 140 of this subchapter, and examine or verify the condition of and, where appropriate, the operation of the following:

(1) Navigation systems and equipment.

(2) Navigation lights.

(3) Navigation charts or maps appropriate to the area of operation and corrected up to date.

(4) Examine the operation of equipment and systems necessary to maintain visibility through the pilothouse windows.

(5) Verify that the vessel complies with 33 CFR part 164, if applicable.

(k) *Sanitary examination.* Examine the quarters, toilet and washing spaces, galleys, serving pantries, lockers, and similar spaces to ensure that they are clean and decently habitable.

(l) *Unsafe practices.* (1) Verify that all observed unsafe practices, fire hazards, and other hazardous situations are corrected, and that all required guards and protective devices are in satisfactory condition.

(2) Verify that bilges and other spaces are free of excessive accumulation of oil, trash, debris, or other matter that might create a fire hazard, clog bilge pumping systems, or block emergency escapes.

(m) *Vessel personnel.* Verify that the:

(1) Vessel is manned in accordance with the vessel's COI;

(2) Crew is maintaining vessel logs and records in accordance with applicable regulations and the TSMS appropriate to the vessel;

(3) Crew is complying with the crew safety and personnel health requirements of part 140 of this subchapter; and

(4) Crew has received training required by parts 140, 141, and 142 of this subchapter.

(n) *Prevention of oil pollution.* Examine the vessel to ensure compliance with the oil pollution prevention requirements in § 140.655 of this subchapter.

(o) *Miscellaneous systems and equipment.* Examine all items in the vessel's outfit, such as ground tackle, markings, and placards that are required to be carried in accordance with the regulations in this subchapter.

Subpart C—Drydock and Internal Structural Surveys

§ 137.300 Intervals for drydock and internal structural examinations.

(a) Regardless of the option chosen to obtain a COI, upon obtaining a COI each towing vessel must then undergo a drydock and internal structural examination at the following intervals:

(1) A vessel that is exposed to salt water more than 6 months in any 12-month period since the last examination or initial certification must undergo a drydock and internal structural examination at least twice every 5 years, with not more than 36 months between examinations.

(2) A vessel that is exposed to salt water not more than 6 months in any 12-month period since the last examination or initial certification must undergo a drydock and internal structural examination at least once every 5 years.

(b) The cognizant OCMI may require additional examinations of the vessel whenever he or she discovers or suspects damage or deterioration to hull plating or structural members that may affect the seaworthiness or fitness for the route or service of a vessel. These examinations may include a drydock examination, including:

(1) An internal structural examination of any affected space of a vessel, including its fuel tanks;

(2) A removal of the vessel from service to assess the extent of the damage and to affect permanent repairs; or

(3) An adjustment of the drydock examination intervals to monitor the vessel's structural condition.

§ 137.302 Documenting compliance for the Coast Guard inspection option.

The managing owner or managing operator of a towing vessel, who has selected the Coast Guard inspection option, must make their vessel available for the Coast Guard to conduct the examinations required by this subpart in accordance with the intervals prescribed in § 137.300.

§ 137.305 Documenting compliance for the TSMS option.

The owner or managing operator of a towing vessel, who has selected the TSMS option, must document compliance with this subpart as follows:

(a) For vessels under the external survey program, provide objective evidence of compliance with § 137.310.

(b) For vessels under the internal survey program, provide objective evidence of compliance with § 137.315.

(c) Provide objective evidence that the vessel has undergone a drydock and internal structural examination, including options permitted in § 137.320 or § 137.322.

§ 137.310 External survey program.

(a) The owner or managing operator of a towing vessel that has selected the TSMS option and who has chosen to demonstrates compliance through an external survey program must:

(1) Have the vessel examined by a surveyor from a TPO at the intervals prescribed in § 137.300;

(2) Ensure the examination is conducted in accordance with § 137.325;

(3) Ensure the TSMS applicable to the vessel includes policies and procedures for complying with this section; and

(4) Make the applicable sections of the TSMS available to the surveyor.

(b) The drydock examination and internal structural examination must be documented in a report that contains the information required in § 137.135.

§ 137.315 Internal survey program.

(a) The owner or managing operator of a towing vessel that has selected the TSMS option and who has chosen to demonstrate vessel compliance with this subpart through an internal survey program must ensure that the TSMS applicable to the vessel includes:

(1) A survey program that meets the requirements contained in § 137.325;

(2) Qualifications of the personnel authorized to carry out a survey program that are comparable to the requirements of a surveyor from a TPO as described in § 139.130 of this subchapter;

(3) Procedures for documenting and reporting non-conformities and deficiencies;

(4) Procedures for reporting and correcting major non-conformities;

(5) The identification of a responsible person in management who has the authority to stop all vessel operations pending corrections, to oversee vessel compliance activities, and to track and verify the corrections of non-conformities and deficiencies; and

(6) Objective evidence that supports the completion of all elements of a vessel's drydock and internal structural examinations.

(b) The owner or managing operator must notify the TPO responsible for auditing the TSMS whenever activities related to credit drydocking or internal structural examinations are to be carried out prior to commencing the activities.

(c) The interval between examinations of each item may not exceed the applicable interval described in § 137.300.

(d) The owner or managing operator must notify the cognizant OCMI of the zone within which activities related to credit drydocking or internal structural examinations are to be carried out prior to commencing the activities.

§ 137.317 Coast Guard oversight of drydock and internal structural examination program for vessels under the TSMS option.

If the cognizant OCMI has reasonable cause to believe the program for the drydock examination and internal structural examination is deficient, he or she may:

(a) Require an audit of ongoing drydocking procedures and of documentation applicable to the vessel, in the presence of a representative of the cognizant OCMI;

(b) Increase the frequency of the audits;

(c) For vessels under the internal survey program, require an examination by a TPO;

(d) Require any other action within his or her authority that he or she considers appropriate; or

(e) For continued deficiencies, remove the vessel, owner, managing operator, or all three, from the TSMS option.

§ 137.320 Vessels holding a valid load line certificate.

A drydock and internal structural examination performed for a towing vessel to maintain a valid load line certificate issued in accordance with subchapter E of this chapter would count as an examination required under § 137.300.

§ 137.322 Classed vessels.

(a) A drydock and internal structural examination performed for a towing vessel to maintain class by the American Bureau of Shipping in accordance with their rules, as appropriate for the intended service and routes, would count as an examination required under § 137.300.

(b) A drydock and internal structural examination performed for a towing vessel to maintain class by a recognized classification society in accordance with their rules, as appropriate for the intended service and routes, would count as an examination required under § 137.300, provided the Coast Guard has accepted their applicable rules.

§ 137.325 General conduct of examination.

(a) When conducting an examination of a towing vessel as required by this subpart, the surveyor must determine whether any defect, deterioration, damage, or modifications of the hull and related structure and components may adversely affect the vessel's seaworthiness or fitness or suitability for its route or service.

(b) The examination must address the items in § 137.330 as applicable, and must include:

(1) Access to internal spaces as appropriate;

(2) A visual examination of the external structure of the vessel to confirm that the condition is properly maintained; and

(3) A visual examination to confirm that unapproved modifications were not made to the vessel.

(c) The thoroughness and stringency of the examination will depend upon the condition of the vessel.

(d) The owner or managing operator must notify the cognizant OCMI when the condition of the vessel may create an unsafe condition.

(e) The cognizant OCMI may require the owner or managing operator to provide for the attendance of a surveyor or auditor from a TPO to assist with verifying the vessel's compliance with the requirements in this subpart.

§ 137.330 Scope of the drydock examination.

(a) This regulation applies to all towing vessels covered by this subchapter. The drydock examination must be conducted while the vessel is hauled out of the water or placed in a drydock or slipway. The Coast Guard inspector or surveyor conducting this examination must:

(1) Examine the exterior of the hull, including bottom, sides, headlog, and stern, and examine all appendages for damage, fractures, wastage, pitting, or improper repairs;

(2) Examine each tail shaft for bends, cracks, and damage, including the sleeves or other bearing contact surfaces on the tail shaft for wear. The tail shaft need not be removed for examination if these items can otherwise be properly evaluated;

(3) Examine the rudders for damage, the upper and lower bearings for wear, and the rudder stock for damage or wear. Rudders need not be removed for examination if these items can be otherwise properly evaluated. This also includes other underwater components of steering and propulsion mechanisms;

(4) Examine the propellers for cracks and damage;

(5) Examine the exterior components of the machinery cooling system for leaks, damage, or deterioration;

(6) Open and examine all sea chests, through-hull fittings, and strainers for damage, deterioration, or fouling; and

(7) On wooden vessels, pull fastenings as required for examination.

(b) An internal structural examination required by this part may be conducted while the vessel is afloat or while it is out of the water. It consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating and planking; voids; and ballast, cargo, and fuel oil tanks. Where the internal framing, plating, or planking of the vessel is concealed, sections of the lining, ceiling, or insulation may be removed or the parts otherwise probed or exposed to determine the condition of the hull structure. Fuel oil tanks need not be cleaned out and internally examined if the general condition of the tanks is determined to be satisfactory by an external examination.

§ 137.335 Underwater survey in lieu of drydocking.

(a) This section applies to all towing vessels subject to this subchapter. If a TSMS is applicable to the vessel, the TSMS may include policies and procedures for employing and documenting an underwater survey in lieu of drydocking (UWILD). A vessel is eligible for UWILD if the Coast Guard determines that:

(1) There is no obvious damage or defect in the hull adversely affecting the seaworthiness or fitness for the vessel's route or service;

(2) The vessel has been operated satisfactorily since the last drydocking;

(3) The vessel is less than 15 years of age;

(4) The vessel has a steel or aluminum hull; and

(5) The vessel is fitted with a hull protection system.

(b) The owner or managing operator must submit an application to the cognizant OCMI at least 90 days before the vessel's next required drydock examination. The application must include:

(1) The procedure for carrying out the underwater survey;

(2) The time and place of the underwater survey;

(3) The method used to accurately determine the diver's or the remotely operated vehicle's location relative to the hull;

(4) The means for examining all through-hull fittings and appurtenances;

(5) The condition of the vessel, including the anticipated draft of the vessel at the time of the survey;

(6) A description of the hull protection system; and

(7) The names and qualifications of all personnel involved in conducting the UWILD.

(c) If a vessel is 15 years of age or older, the Commandant may approve a UWILD at alternating intervals provided that:

(1) All provisions of paragraphs (a) and (b) of this section are complied with, except that the vessel does not need to be less than 15 years of age; and

(2) During the vessel's drydock examination preceding the underwater survey, a complete set of hull gauging was taken which indicated that the vessel was free from hull deterioration.

PART 138—TOWING SAFETY MANAGEMENT SYSTEM (TSMS)

Sec.

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Authority: 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; DHS Delegation 0170.1.

Subpart A—General

§ 138.100 Purpose.

The purpose of this part is to prescribe requirements for owners or managing operators of towing vessels who adopt a Towing Safety Management System (TSMS) under this subchapter.

§ 138.115 Compliance.

Owners or managing operators selecting the TSMS option must obtain a TSMS certificate issued under § 138.305 at least 6 months before obtaining a Certificate of Inspection (COI) for any of their vessels covered by the TSMS certificate.

Subpart B—Towing Safety Management System (TSMS)

§ 138.205 Purpose of a TSMS.

(a) The purpose of a TSMS is to establish policies, procedures, and required documentation to ensure the owner or managing operator meets its established goals while ensuring continuous compliance with all regulatory requirements. The TSMS must contain a method to ensure all levels of the organization are working within the framework.

(b) A TSMS establishes and maintains:

(1) Management policies and procedures that serve as an operational protocol for all levels within management;

(2) Procedures to produce objective evidence that demonstrates compliance with the requirements of this subchapter;

(3) Procedures for an owner or managing operator to evaluate that they are following their own policies and procedures and complying with the requirements of this subchapter;

(4) Arrangements for a periodic evaluation by an independent third-party organization (TPO) to determine how well an owner or managing operator and their towing vessels are complying with their stated policies and procedures, and to verify that those policies and procedures comply with the requirements of this subchapter; and

(5) Procedures for correcting problems identified by management personnel and TPOs and facilitating continuous improvement.

§ 138.210 Objectives of a TSMS.

The TSMS, through policies, procedures, and documentation, must:

(a) *Demonstrate management responsibility.* The management must demonstrate that they implemented the policies and procedures as contained in the TSMS and the entire organization is adhering to their safety management program.

(b) *Document management procedures.* A TSMS must describe and document the owner or managing operator's organizational structure, responsibilities, procedures, and resources which ensure quality monitoring.

(c) *Ensure document and data control.* There must be clear identification of what types of documents and data are to be controlled, and who is responsible for controlling activities, including approval, issue, distribution, modification, removal of obsolete materials, and other related administrative functions.

(d) *Provide a process and criteria for selection of third parties.* Procedures for selection of TPOs must exist that include how third parties are evaluated, including selection criteria.

(e) *Establish a system of recordkeeping.* Records must be maintained to demonstrate effective implementation of the TSMS. This must include audit records, non-conformity reports and corrective actions, auditor qualifications, auditor training, and other records as considered necessary.

(f) *Identify and meet training needs.* The owner or operator must establish and maintain documented procedures for identifying training needs and providing training.

(g) *Ensure adequate resources.* Identify adequate resources and procedures necessary to comply with the TSMS.

§ 138.215 Functional requirements of a TSMS.

The functional requirements of a TSMS include:

(a) Policies and procedures to provide direction for the safe operation of towing vessels and protection of the marine environment in compliance with applicable U.S. law, including the Code of Federal Regulations, and, if on an international voyage, applicable international conventions to which the United States is a party;

(b) Defined levels of authority and lines of communication between shoreside and vessel personnel;

(c) Procedures for reporting accidents and non-conformities;

(d) Procedures to prepare for and respond to emergency situations by shoreside and vessel personnel;

(e) Procedures for verification of vessel compliance with this subchapter;

(f) Procedures for internal auditing of the TSMS, including shoreside and vessel operations;

(g) Procedures for external audits;

(h) Procedures for management review of internal and external audit reports and correction of non-conformities; and

(i) Procedures to evaluate recommendations made by management and other personnel.

§ 138.220 TSMS elements.

The TSMS must include the elements listed in paragrahs (a) through (d) of this section. If an element listed is not applicable to an owner or managing operator, appropriate justification must be documented and is subject to acceptance by the TPO.

(a) *Administration and management organization.* A policy must be in place that outlines the TSMS culture and how management intends to ensure compliance with this subpart. Supporting this policy, the following procedures and documentation must be included:

(1) *Management organization*—(i) *Responsibilities.* The management organization, authority, and responsibilities of individuals must be documented.

(ii) *Designated person.* Each owner or managing operator must designate in writing the shoreside person(s) responsible for ensuring the TSMS is implemented and continuously functions throughout management and the fleet. They must also designate the shoreside person(s) responsible for ensuring that the vessels are properly maintained and in operable condition, including those responsible for emergency assistance to each towing vessel.

(iii) *Master authority.* Each owner or managing operator must define the scope of the master's authority. The master's authority must provide for the ability to make final determinations on safe operations of the towing vessel. Specifically, it must provide the authority for the master to cease operation if an unsafe condition exists.

(2) *Audits*—(i) *Procedures for conducting internal and external audits.*

The TSMS must contain procedures for audits in accordance with §§ 138.310 and 138.315.

(ii) *Procedures for identifying and correcting non-conformities.* The TSMS must contain procedures for any person to report non-conformities. The procedures must describe how an initial report should be made and the actions taken to follow-up and ensure appropriate resolution.

(b) *Personnel.* Policies must be in place that cover the owner or managing operator's approach to managing personnel, including, but not limited to, employment, training, and health and safety of personnel. Supporting these polices, the following procedures and documentation must be included:

(1) *Employment procedures.* The TSMS must contain procedures related to the employment of individuals. Procedures must be in place to ensure adequate qualifications of personnel, to include background checks, compliance with drug and alcohol standards, and that personnel are able to perform required tasks.

(2) *Training of personnel.* The TSMS must contain a policy related to the training of personnel, including:

(i) New-hire orientation;

(ii) Duties associated with the execution of the TSMS;

(iii) Execution of operational duties;

(iv) Execution of emergency procedures;

(v) Occupational health;

(vi) Crew safety; and

(vii) Training required by this Subchapter.

(c) *Verification of vessel compliance.* Policies must be in place that cover the owner or managing operator's approach for ensuring vessel compliance, including, but not limited to, policies on maintenance and survey, safety, the environment, security, and emergency preparedness. Supporting these policies, the following procedures and documentation must be included:

(1) *Maintenance and survey.* Procedures outlining the owner or managing operator's survey regime must specify all maintenance, examination, and survey requirements, including the minimum qualifications of persons assigned to carry out required surveys the owner or managing operator is using the internal examination program. Applicable documentation must be maintained for all activities for a period of 5 years.

(2) *Safety, environment, and security.* Procedures must be in place to ensure safety of property, the environment, and personnel. This must include procedures to ensure the selection of the appropriate vessel, including adequate maneuverability and horsepower, appropriate rigging and towing gear, proper management of the navigational watch, and compliance with applicable security measures.

(d) *Compliance with this subchapter.* Procedures and documentation must be in place to ensure that each towing vessel complies with the operational, equipment, and personnel requirements of this subchapter.

§ 138.225 Existing safety management systems (SMSs).

(a) A safety management system (SMS) which is fully compliant with the International Safety Management (ISM) Code requirements, implemented in 33 CFR part 96, will be deemed in compliance with TSMS-related requirements in this subchapter.

(b) Other existing SMSs may be considered for acceptance as meeting the TSMS requirements of this part. The Coast Guard may:

(1) Accept such system in full;

(2) Require modifications to the system as a condition of acceptance; or

(3) Reject the system.

(c) An owner or managing operator who seeks to meet TSMS requirements using provisions in paragraph (a) or (b) of this section must submit documentation to the Coast Guard based on the initial audit and one full audit cycle of at least 3 years.

(d) The Coast Guard may elect to inspect equipment and records, including:

(1) Contents of the SMS;

(2) Objective evidence of internal and external audits;

(3) Objective evidence that non-conformities were identified and corrected; and

(4) Objective evidence of vessel compliance with applicable regulations.

Subpart C—Documenting Compliance

§ 138.305 TSMS certificate.

(a) The owner or managing operator will be issued a TSMS certificate by a TPO when his or her organization is deemed in compliance with the TSMS requirements. It should be kept on file at the owner or managing operator's shoreside office and available for review, at the request of the Coast Guard.

(b) A TSMS certificate is valid for 5 years from the date of issue, unless suspended, revoked or rescinded as provided in paragraphs (d) and (e) of this section.

(c) The vessel owner or managing operator must maintain a list of vessels currently covered by each TSMS certificate and must provide it to the Coast Guard upon request.

(d) A TSMS certificate may be suspended or revoked by the Coast Guard at any time for non-compliance with the requirements of this part.

(e) The TPO that issued the TSMS certificate may rescind the certificate for non-compliance with the requirements of this part.

(f) A copy of the TSMS certificate must be maintained on each towing vessel that is covered by the TSMS certificate and on file at the owner or managing operator's shoreside office.

§ 138.310 Internal audits for a TSMS certificate.

(a) Internal management audits must be conducted annually, within 3 months of the anniversary date of the TSMS certificate, to ensure the owner or managing operator is effectively implementing all elements of their TSMS.

(b) The internal management audit must ensure that management has implemented the TSMS throughout all levels of the organization, including audits of all the owner or managing operator's towing vessels to which a TSMS applies to ensure implementation at the operational level.

(c) The results of internal audits must be documented and maintained for a period of 5 years and made available to the Coast Guard upon request.

(d) Internal auditors:

(1) Must have knowledge of the management, its SMS, and the standards contained in this subchapter;

(2) Must have completed an ANSI/ISO/ASQ Q9001–2000 or ISO 9001:2008(E) (incorporated by reference, see § 136.112 of this subchapter) internal auditor/assessor course or Coast Guard-recognized equivalent;

(3) May not be the designated person, or any other person, within the organization that is responsible for development or implementation of the TSMS; and

(4) Must be independent of the procedures being audited, unless this is impracticable due to the size and the nature of the organization.

§ 138.315 External audits for a TSMS certificate.

External audits for obtaining and renewing a TSMS certificate are conducted through a TPO and must include both management and vessels as follows:

(a) *Management audits.* (1) Prior to the issuance of an owner or managing operator's initial TSMS certificate, or subsequent renewals, an external management audit must be conducted by an auditor from a TPO.

(2) A mid-period external management audit must be conducted

between the 27th and 33rd month of the certificate's period of validity.

(b) *Vessel audits.* (1) An external audit must be conducted prior to the issuance of the initial COI for vessels subject to an owner or managing operator's TSMS that have been owned or operated for 6 or more months prior to receiving the initial COI.

(2) An external audit must be conducted no later than 6 months after the issuance of the initial COI for vessels subject to the owner or managing operator's TSMS that have been owned or operated for fewer than 6 months prior to receiving the initial COI.

(3) An external audit of all vessels covered by a TSMS certificate must be conducted during the 5-year period of validity of the TSMS certificate. The vessels must be selected randomly and distributed as evenly as possible.

(4) External audits may include the use of objective evidence which may be available at the owner or managing operator's corporate office. Some portions of this audit require visiting each vessel at some point during the 5-year period of validity of the TSMS certificate.

(c) *Documentation.* The results of the external audit must be documented and maintained for a period of 5 years and made available to the Coast Guard or the external auditor upon request.

Subpart D—Audits

§ 138.400 General.

Management and vessels are subject to internal and external audits to assess compliance with TSMS and the vessel standards requirements of this subchapter.

§ 138.405 Conduct of internal audits.

(a) Internal audits are conducted by, or on behalf of, the management and may be performed by a designated employee or by contracted individual(s) who conduct the audit as if an employee of the owner or managing operator.

(b) Internal audits are not necessarily conducted as one event; they can be taken in segments over time.

(c) Internal audits must be of sufficient depth and breadth to ensure the owner or managing operator established adequate procedures and documentation to comply with the TSMS requirements of this part, that the TSMS was implemented throughout all levels of the organization, and that the owner or managing operator's vessels comply with this subchapter and the TSMS.

(d) The auditor must have the authority to examine documentation, question personnel, examine vessel equipment, witness system testing, and observe personnel training, including drills, as necessary to verify TSMS effectiveness.

§ 138.410 Conduct of external audits.

(a) External audits must be conducted by an auditor from a TPO and cover all elements of the TSMS requirements of this subchapter, but may be conducted on a sampling basis of each of those TSMS elements.

(b) External audits must be of sufficient depth and breadth to ensure the owner or operating manager effectively implemented its TSMS throughout all levels of the organization, including onboard its vessels.

(c) The auditor must be provided access to examine any requested documentation, question personnel, examine vessel equipment, witness system testing, and observe personnel training, including drills, as necessary to verify TSMS effectiveness.

(d) The auditor may broaden the scope of the audit if:

(1) The TSMS is incomplete or not effectively implemented;

(2) Conditions found are not consistent with the records; or

(3) Unsafe conditions are identified.

(e) The auditor may verify compliance with vessel standards and TSMS requirements through a review of objective evidence such as checklists, invoices, and reports, and may conduct a visual sampling onboard the vessels to determine whether or not the conditions onboard the vessel are consistent with the records reviewed.

(f) If an auditor identifies a major non-conformity during the course of the external audit, then the auditor must notify the local Officer in Charge, Marine Inspection (OCMI) within 24 hours and the owner or managing operator's designated representative in accordance with the TSMS applicable to the vessel.

Subpart E—Coast Guard or Organizational Oversight and Review

§ 138.500 Notification prior to audit.

(a) The owner or managing operator of a towing vessel must notify the local OCMI at least 72 hours prior to an external audit being conducted under this part.

(b) The Coast Guard may require that a Coast Guard representative accompany the auditor during part, or all, of an external audit.

(c) The Coast Guard may conduct a separate audit of the owner or managing operator or its towing vessels, at its discretion.

§ 138.505 Submittal of external audit results.

(a) *Submission of external management audits.* The results of an external management audit as required by § 138.315 must be submitted to the Towing Vessel National Center of Expertise within 30 days of audit completion by the TPO conducting the external audit. The mailing address for the Coast Guard Towing Vessel National Center of Expertise is 504 Broadway Street, Suite 101, Paducah, Kentucky 42001.

(b) *Submission of external vessel audits.* The results of any external vessel audits required by § 138.315 must be submitted to the cognizant OCMI within 30 days of audit completion by the TPO conducting the external audit.

(c) *Electronic submissions.* The results of external audits required by this section may be submitted electronically so long as the means used allows the Coast Guard to reliably verify the person making the submission and the authenticity of the records submitted. For those seeking to submit external audit records to the Coast Guard electronically, the TSMS must address the means to be used to make these electronic submissions.

§ 138.510 Required attendance.

(a) The TPO and the owner or managing operator may be required to explain or otherwise demonstrate areas of the TSMS to the Coast Guard if there is evidence that a TSMS, for which a TSMS certificate was issued, is not in compliance with the provisions of this part. The Coast Guard may require a third party's attendance at the vessel or the office of the owner or managing operator for this purpose.

(b) The Coast Guard will not bear any of the costs for a third party's attendance at the vessel or the office of the owner or managing operator when complying with this provision.

PART 139—THIRD-PARTY ORGANIZATIONS

Sec.

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Authority: 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; DHS Delegation 0170.1.

§ 139.100 Purpose.

(a) This part states the requirements applicable to third-party organizations (TPOs) that conduct audits and surveys for towing vessels as required by this subchapter.

(b) The Commandant delegates to the Towing Vessel National Center of Expertise (TVNCOE) the authority to carry out the functions of this part associated with approval of TPOs, including revocation and suspension of approval.

§ 139.110 Organizations not subject to further approval.

(a) A recognized classification society, which has satisfied the requirements in 46 CFR 8.230, meets the requirements of a TPO for the purposes of this part and may perform the work as a third-party auditor.

(b) An authorized classification society, which has been authorized under 46 CFR part 8, subpart C or D, meets the requirements of a TPO for the purposes of this part and may perform the work as a third-party surveyor.

(c) The organizations qualifying as TPOs under paragraph (a) or (b) of this section must ensure that employees providing services under this part hold proper qualifications for the particular type of service being performed.

§ 139.115 General.

(a) The Coast Guard approves TPOs to carry out functions related to ensuring that towing vessels comply with provisions of this subchapter. Organizations may be approved to:

(1) Conduct audits of a Towing Safety Management System (TSMS), and the vessels to which the TSMS applies, to verify compliance with the applicable provisions of this subchapter;

(2) Issue TSMS certificates to the owner or managing operator who is in compliance with part 138 of this subchapter;

(3) Conduct surveys of towing vessels to verify compliance with the applicable provisions of this subchapter; and

(4) Issue survey reports detailing the results of surveys, carried out in compliance with part 137 of this subchapter.

(b) An organization seeking approval under this part must provide objective evidence to the Coast Guard that its program:

(1) Is independent of the owner or managing operator and vessels that it audits or surveys;

(2) Operates within a quality management system acceptable to the Coast Guard;

(3) Ensures its auditors and surveyors are qualified and maintain continued competence;

(4) Demonstrates the ability to carry out the responsibilities of approval; and

(5) Meets all other requirements of this part.

(c) A list of TPOs will be maintained by the Coast Guard, and made available upon request.

§ 139.120 Application for approval as a TPO.

An organization, which may include a business entity or an association, desiring to be approved as a TPO under this part must submit a written request to the Towing Vessel National Center of Expertise, 504 Broadway St Suite 101, Paducah, KY 42001. The organization must provide the following information:

(a) A description of the organization, including the ownership, structure, and organizational components.

(b) A general description of the clients being served or intended to be served.

(c) A description of the types of work performed by the organization or by the principals of the organization in the past, noting the amount and extent of such work performed within the previous 3 years.

(d) Objective evidence of an internal quality system based on ANSI/ISO/ASQ Q9001–2000 (incorporated by reference, see § 136.112 of this subchapter) or an equivalent quality standard.

(e) Organization procedures and supporting documentation that describe processes used to perform an audit and records to show system effectiveness.

(f) Copies of checklists, forms, or other tools to be used as guides or for recording the results of audits and/or surveys.

(g) Organization procedures for appeals and grievances.

(h) The organization's code of ethics applicable to the organization and its auditors and/or surveyors.

(i) A list of the organization's auditors and/or surveyors who meet the requirements of § 139.130. This list must include the experience, background, and qualifications for each auditor and/or surveyor.

(j) A description of the organization's means of assuring continued competence of its personnel.

(k) The organization's procedures for terminating or removing auditors and/or surveyors.

(l) A description of the organization's means of assuring the availability of its personnel to meet the needs of the towing companies for conducting audits and surveys within the intervals established in this subchapter.

(m) A description of the organization's apprentice or associate program for auditors and/or surveyors.

(n) A statement that the Coast Guard may inspect the organization's facilities and records and may accompany auditors and/or surveyors in the performance of duties related to the requested approval.

(o) Disclosure of any potential conflicts of interest.

(p) A statement that the organization, its managers, and employees engaged in audits and/or surveys are not, and will not be involved in any activities which could result in a conflict of interest or otherwise limit the independent judgment of the auditor and/or surveyor or organization.

(q) Any additional information that the applicant deems pertinent.

§ 139.125 Approval of TPOs.

(a) The Commandant delegates to the Towing Vessel National Center of Expertise (TVNCOE) the authority to carry out the review and approval described in this section, and the related authority to suspend and revoke approval.

(b) The Coast Guard will review the request and notify the organization in writing whether their request is granted.

(c) If a request for approval is denied, the Coast Guard will inform the organization of the reasons for the denial and will describe what corrections are required for an approval to be granted.

(d) An approval for a TPO that meets the requirements of this part will expire:

(1) Five years after the last day of the month in which it is granted;

(2) When the TPO gives notice that it will no longer offer towing vessel audit and/or survey services;

(3) When revoked by the Coast Guard in accordance with § 139.150; or

(4) On the date of a change in ownership, as defined in § 136.110, of the TPO for which approval was granted.

§ 139.130 Qualifications of auditors and surveyors.

(a) A prospective auditor or surveyor must have the skills and experience necessary to assess compliance with all requirements of this subchapter.

(b) Auditors must meet the following qualifications:

(1) High school diploma or equivalent.

(2) Four years of working on towing vessels or other relevant marine experience such as Coast Guard marine inspector, licensed mariner, military

personnel with relevant maritime experience, or marine surveyor.

(3) Successful completion of an ANSI/ISO/ASQ Q9001–2000 or ISO 9001:2008(E) (incorporated by reference, see § 136.112 of this subchapter) lead auditor/assessor course or Coast Guard recognized equivalent.

(4) Successful completion of a training course for the auditing of a TSMS.

(5) Audit experience, as demonstrated by:

(i) Documented experience in auditing the ISM Code or the American Waterways Operators Responsible Carrier Program, consisting of at least two management audits and six vessel audits within the past 5 years; or

(ii) Successful completion of an auditor apprenticeship, consisting of at least one management audit and three vessel audits under the direction of a lead auditor.

(c) Surveyors must meet the following qualifications:

(1) High school diploma or equivalent.

(2) At least one of the following:

(i) Four years of experience working on towing vessels as master, mate (pilot), or engineer; or

(ii) Other relevant marine experience such as Coast Guard marine inspector, military personnel with relevant maritime experience, marine surveyor, accredited marine surveyor, experience on vessels of similar operating and physical characteristics.

§ 139.135 Addition and removal of auditors and surveyors.

(a) A TPO must maintain a list of current and former auditors and surveyors.

(b) To add an auditor or surveyor, the TPO must submit that person's experience, background, and qualifications to the TVNCOE.

(c) The TVNCOE must be notified when an auditor or surveyor is removed from employment.

§ 139.140 Renewal of TPO approval.

(a) To renew an approval, a TPO must submit a written request to the TVNCOE at the address listed in § 139.120.

(b) For the request to be approved, the Coast Guard must be satisfied that the applicant continues to fully meet approval criteria.

(c) The Coast Guard may request any additional information necessary to properly evaluate the request.

§ 139.145 Suspension of approval.

(a) The Coast Guard may suspend the approval of a TPO approved under this part whenever the Coast Guard determines that the TPO does not comply with the provisions of this part. The Coast Guard must:

(1) Notify the TPO in writing of the intention to suspend the approval;

(2) Provide the details of the TPO's failure to comply with this part; and

(3) Advise the TPO of the time period, not to exceed 60 days, within which the TPO must correct its failure to comply with this part. If the TPO fails to correct its failure to comply with this part within the time period allowed, the approval will be suspended.

(b) The Coast Guard may also partially suspend the approval of a TPO, using the process described in paragraph (a) of this section. This may include suspension of an individual auditor or surveyor or suspension of the authority of the TPO to carry out specific duties whenever the Coast Guard determines that the provisions of this part are not complied with.

§ 139.150 Revocation of approval.

(a) The Coast Guard may revoke the approval of a TPO if the organization has demonstrated a pattern or history of:

(1) Failure to comply with this part;

(2) Substantial deviations from the terms of the approval granted under this part; or

(3) Failures, including ethical violations, conflicts of interest, or inadequate performance, that indicate to the Coast Guard that the TPO is no longer capable of carrying out its duties as a TPO.

(b) If the Coast Guard seeks to revoke the approval of a TPO, it must:

(1) Notify the TPO in writing of the intention to revoke the approval;

(2) Provide the details of the TPO's demonstrated pattern or history of actions described in paragraph (a) of this section; and

(3) Advise the TPO that it may appeal this decision to the Coast Guard in accordance with the provisions of 46 CFR subpart 1.03.

§ 139.155 Appeals of suspension or revocation of approval.

Anyone directly affected by a decision to suspend or revoke an approval granted under this part may appeal the decision to the Coast Guard in accordance with the provisions of 46 CFR subpart 1.03.

§ 139.160 Coast Guard oversight activities.

(a) The Coast Guard will provide notice to the TPO 48 hours in advance of any site visit, unless the visit is in response to a complaint or other evidence of regulatory non-compliance. During the visit, the Coast Guard may:

(1) Inspect a TPO's records;

(2) Conduct interviews of auditors or surveyors to aid in the evaluation of the organization; and

(3) Observe audits or surveys.

(b) The Coast Guard may require that the owner or managing operator make available a copy of the TSMS upon request.

(c) The Coast Guard may require a revision of a previously approved TSMS if it is determined that requirements of this subchapter are not met.

§ 139.165 Documentation.

(a) Each TPO must retain the results of each survey or audit conducted under its approval, including:

(1) The names of the auditors and/or surveyors;

(2) The results of each audit or survey conducted; and

(3) Documentation showing continuing actions relative to an audit or survey, such as resolution of deficiencies and non-conformities.

(b) Each TPO must also retain the results of audits of their organization conducted by the Coast Guard.

(c) Records required by this part must be retained for a period of 5 years.

PART 140—OPERATIONS

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Authority: 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; DHS Delegation 0170.1.

Subpart A—General

§ 140.100 Purpose.

This part contains the health, safety, and operational requirements for towing vessels and the crewmembers serving onboard them.

§ 140.105 Applicability and delayed implementation for existing vessels.

This part applies to all towing vessels subject to this subchapter.

(a) With the exception § 140.500, which has a later implementation date, an existing towing vessel must comply with the requirements in this part no later than either July 20, 2018 or the date the vessel obtains a Certificate of Inspection (COI), whichever date is earlier.

(b) The delayed implementation provisions in paragraph (a) of this section do not apply to a new towing vessel.

Subpart B—General Operational Safety

§ 140.205 General vessel operation.

(a) A vessel must be operated in accordance with applicable laws and regulations and in such a manner as to afford protection against hazards to life, property, and the environment.

(b) Towing vessels with a Towing Safety Management System (TSMS) must be operated in accordance with the TSMS applicable to the vessel.

(c) Vessels must be manned in accordance with the COI. Manning requirements are contained in part 15 of this chapter.

(d) Each crewmember that is required to hold a Merchant Mariner Credential (MMC) must have the credential on board and available for examination at all times when the vessel is operating.

(e) All individuals who are not required to hold an MMC permitted onboard the vessel must have and present on request a valid personal identification that meets the requirements set forth in 33 CFR 101.515.

§ 140.210 Responsibilities of the master and crew.

(a) The safety of the towing vessel is the responsibility of the master and includes:

(1) Adherence to the provisions of the COI;

(2) Compliance with the applicable provisions of this subchapter;

(3) Compliance with the TSMS, if one is applicable to the vessel; and

(4) Supervision of all persons onboard in carrying out their assigned duties.

(b) If the master or officer in charge of a navigational watch believes it is unsafe for the vessel to proceed, that an operation endangers the vessel or crew, or that an unsafe condition exists, he or she must ensure that adequate corrective action is taken and must not proceed until it is safe to do so.

(c) Nothing in this subpart may be construed in a manner which limits the master or officer in charge of a navigational watch, at his or her own responsibility, from diverting from the route prescribed in the COI or taking such steps as deemed necessary and prudent to assist vessels in distress or for other emergency conditions.

(d) It is the responsibility of the crew to:

(1) Adhere to the provisions of the COI;

(2) Comply with the applicable provisions of this subchapter;

(3) Comply with the TSMS, if one is applicable to the vessel;

(4) Ensure that the master or officer in charge of a navigational watch is made aware of all known aspects of the condition of the vessel, including:

(i) Those vessels being pushed, pulled, or hauled alongside; and

(ii) Equipment and other accessories used for pushing, pulling, or hauling alongside other vessels.

(5) Minimize any distraction from the operation of the vessel or performance of duty; and

(6) Report unsafe conditions to the master or officer in charge of a navigational watch and take effective action to prevent accidents.

Subpart C—[Reserved]

Subpart D—Crew Safety

§ 140.400 Personnel records.

(a) The master of each towing vessel must keep an accurate list of crewmembers and their assigned positions and responsibilities aboard the vessel.

(b) The master must keep an accurate list of individuals to be carried as persons in addition to the crew and any passengers.

(c) The date and time that a navigation watchstander, including master, officer in charge of a navigational watch, and lookout assumes a watch and is relieved of a watch must be recorded in the towing vessel record (TVR), official logbook, or in accordance with the TSMS applicable to the vessel. If an engineering watch is maintained, comparable records documenting the engineering watch are required.

§ 140.405 Emergency duties and duty stations.

(a) Crewmembers must meet the requirements in §§ 15.405 and 15.1105 of this chapter, as appropriate.

(b) Any towing vessel with alternating watches (shift work) or overnight accommodations must identify the duties and duty stations of each person onboard during an emergency, including:

(1) Responding to fires and flooding;

(2) Responding to emergencies that necessitate abandoning the vessel;

(3) Launching survival craft;

(4) Taking action during heavy weather;

(5) Taking action in the event of a person overboard;

(6) Taking action relative to the tow;

(7) Taking action in the event of failure of propulsion, steering, or control system;

(8) Managing individuals onboard who are not crewmembers;

(9) Managing any other event or condition which poses a threat to life, property, or the environment; and

(10) Responding to other special duties essential to addressing emergencies as determined by the TSMS applicable to the vessel, if a TSMS is used.

(c) The emergency duties and duty stations required by this section must be posted at each operating station and in a conspicuous location in a space commonly visited by crewmembers. If posting is impractical, such as in an open boat, they may be kept onboard in a location readily available to the crew.

§ 140.410 Safety orientation.

(a) Personnel must meet the requirements in §§ 15.405 and 15.1105 of this chapter, as appropriate.

(b) Prior to getting underway for the first time on a particular towing vessel, each crewmember must receive a safety orientation on:

(1) His or her duties in an emergency;

(2) The location, operation, and use of lifesaving equipment;

(3) Prevention of falls overboard;

(4) Personal safety measures;

(5) The location, operation, and use of Personal Protective Equipment;

(6) Emergency egress procedures;

(7) The use and operation of watertight and weathertight closures;

(8) Responsibilities to provide assistance to individuals that are not crewmembers;

(9) How to respond to emergencies relative to the tow; and

(10) Awareness of, and expected response to, any other hazards inherent to the operation of the towing vessel which may pose a threat to life, property, or the environment.

(c) The safety orientation provided to crewmembers who received a safety orientation on another vessel may be modified to cover only those areas unique to the other vessel on which service will occur.

(d) Safety orientations and other crew training must be documented in the TVR, official logbook, or in accordance with the TSMS applicable to the vessel. The entry must include:

(1) The date of the safety orientation or training;

(2) A general description of the safety orientation or training topics;

(3) The name(s) and signature(s) of individual(s) providing the orientation or training; and

(4) The name(s) of the individual(s) receiving the safety orientation or training.

§ 140.415 Orientation for individuals that are not crewmembers.

Individuals, who are not crewmembers, on board a towing vessel must receive a safety orientation prior to getting underway or as soon as practicable thereafter, to include:

(a) The location, operation, and use of lifesaving equipment;

(b) Emergency procedures;

(c) Methods to notify crewmembers in the event of an emergency; and

(d) Prevention of falls overboard.

§ 140.420 Emergency drills and instruction.

(a) *Master's responsibilities.* The master of a towing vessel must ensure that drills are conducted and instructions are given to ensure that all crewmembers are capable of performing the duties expected of them during emergencies. This includes abandoning the vessel, recovering persons from the water, responding to onboard fires and flooding, or responding to other threats to life, property, or the environment.

(b) *Nature of drills.* Each drill must, as far as practicable, be conducted as if there was an actual emergency.

(c) *Annual instruction for each crew member.* Unless otherwise stated, each crewmember must receive the instruction required by this section annually.

(d) *Instructions and drills required.* The following instruction and drills are required:

(1) Response to fires, as required by § 142.245 of this subchapter;

(2) Launching of a skiff, if listed as an item of emergency equipment to abandon ship or recover a person-overboard;

(3) Instruction on the use of davit-launched liferafts, if installed.

(4) If a rescue boat is installed, instruction on how it must be launched, with its assigned crew aboard, and maneuvered in the water as if during an actual man-overboard situation.

(5) Credentialed mariners holding an officer endorsement do not require instruction in accordance with paragraphs (d)(1), (3), and (4) of this section.

(e) *Alternative forms of instruction.* (1) Instruction as required by this section may be conducted via an electronic format followed by a discussion and demonstration by a competent individual. This instruction may occur either on board or off the vessel but must include the equipment that is the subject of the instruction.

(2) Instruction as required by this section may be performed in accordance with the TSMS applicable to the vessel, provided that it meets the minimum requirements of this section.

(f) *Location of drills, full crew participation, and use of equipment.* As far as practicable, drills must take place on board the vessel. They must include:

(1) Participation by all crewmembers; and

(2) Actual use of, or realistic simulation of the use of, emergency equipment.

(g) *Recordkeeping.* Records of drills and instruction must be maintained in the TVR, official logbook, or in accordance with the TSMS applicable to the vessel. The record must include:

(1) The date of the drill and instruction;

(2) A description of the drill scenario and instruction topics;

(3) The personnel involved.

§ 140.425 Fall overboard prevention.

(a) The owner or managing operator of a towing vessel must establish procedures to address fall overboard prevention and recovery of persons in the water, including, but not limited to:

(1) Personal protective equipment;

(2) Safely working on the tow;

(3) Safety while line handling;

(4) Safely moving between the vessel and a tow, pier, structure, or other vessel; and

(5) Use of retrieval equipment.

(b) The owner, managing operator, or master must ensure that all persons on board comply with the policies and procedures in this section.

§ 140.430 Wearing of work vests.

(a) Personnel dispatched from the vessel or that are working in an area on the exterior of the vessel without rails and guards must wear a lifejacket meeting requirements in 46 CFR 141.340, an immersion suit meeting requirements in 46 CFR 141.350, or a work vest approved by the Commandant under 46 CFR subpart 160.053. When worn at night, the work vest must be equipped with a light that meets the requirements of 46 CFR 141.340(g)(1). Work vests may not be substituted for the lifejackets required by 46 CFR part 141.

(b) Each storage container containing a work vest must be marked "WORK VEST".

§ 140.435 First aid equipment.

Each towing vessel must be equipped with an industrial type first aid cabinet or kit, appropriate to the size of the crew and operating conditions. Each towing vessel operating on oceans, coastwise, or Great Lakes routes must have a means to take blood pressure readings, splint broken bones, and apply large bandages for serious wounds.

Subpart E—Safety and Health

§ 140.500 General.

(a) No later than July 22, 2019, the owner or managing operator must implement a health and safety plan. The health and safety plan must document compliance with this part and include recordkeeping procedures.

(b) The owner, managing operator, or master must ensure that all persons on board a towing vessel comply with the health and safety plan.

§ 140.505 General health and safety requirements.

(a) The owner or managing operator must implement procedures for reporting unsafe conditions and must have records of the activities conducted under this section. The owner or managing operator must maintain records of health and safety incidents that occur on board the vessel, including any medical records associated with the incidents. Upon request, the owner or managing operator must provide crewmembers with incident reports and the crewmember's own associated medical records.

(b) All vessel equipment must be used in accordance with the manufacturer's recommended practice and in a manner that minimizes risk of injury or death. This includes machinery, deck machinery, towing gear, ladders, embarkation devices, cranes, portable tools, and safety equipment.

(c) All machinery and equipment that is not in proper working order (including missing or malfunctioning guards or safety devices) must be removed; made safe through marking, tagging, or covering; or otherwise made unusable.

(d) *Personal Protective Equipment (PPE).* (1) Appropriate Personal Protective Equipment (PPE) must be made available and on hand for all personnel engaged in an activity that requires the use of PPE.

(2) PPE must be suitable for the vessel's intended service; meet the standards of 29 CFR part 1910, subpart I; and be used, cleaned, maintained, and repaired in accordance with manufacturer's requirements.

(3) All individuals must wear PPE appropriate to the activity being performed;

(4) All personnel engaged in an activity must be trained in the proper use, limitations, and care of the PPE specified by this subpart;

(e) The vessel, including crew's quarters and the galley, must be kept in a sanitary condition.

§ 140.510 Identification and mitigation of health and safety hazards.

(a) The owner or managing operator must implement procedures to identify and mitigate health and safety hazards, including but not limited to:

(1) Tools and equipment, including deck machinery, rigging, welding and cutting, hand tools, ladders, and abrasive wheel machinery found on board the vessel;

(2) Slips, trips, and falls;

(3) Working aloft;

(4) Hazardous materials;

(5) Confined space entry;

(6) Blood-borne pathogens and other biological hazards;

(7) Electrical;

(8) Noise;

(9) Falls overboard;

(10) Vessel embarkation and disembarkation (including pilot transfers);

(11) Towing gear, including winches, capstans, wires, hawsers and other related equipment;

(12) Personal hygiene;

(13) Sanitation and safe food handling; and

(14) Potable water supply.

(b) As far as practicable, the owner or managing operator must implement other types of safety control measures before relying on Personal Protective Equipment. These controls may include administrative, engineering, source modification, substitution, process change or controls, isolation, ventilation, or other controls.

§ 140.515 Training requirements.

(a) All crewmembers must be provided with health and safety information and training that includes:

(1) Content and procedures of the owner or managing operator's health and safety plan;

(2) Procedures for reporting unsafe conditions;

(3) Proper selection and use of PPE appropriate to the vessel operation;

(4) Safe use of equipment including deck machinery, rigging, welding and cutting, hand tools, ladders, and abrasive wheel machinery found onboard the vessel;

(5) Hazard communication and cargo knowledge;

(6) Safe use and storage of hazardous materials and chemicals;

(7) Confined space entry;

(8) Respiratory protection; and

(9) Lockout/Tagout procedures.

(b) Individuals, other than crewmembers, must be provided with sufficient information or training on hazards relevant to their potential exposure on or around the vessel.

(c) Crewmember training required by this section must be conducted as soon as practicable, but not later than 5 days after employment.

(d) Refresher training must be repeated annually and may be conducted over time in modules covering specific topics. Refresher training may be less comprehensive, provided that the information presented is sufficient to provide employees with continued understanding of workplace hazards. The refresher training of persons subject to this subpart must include the information and training prescribed in this section.

(e) The owner, managing operator, or master must determine the appropriate training and information to provide to each individual permitted on the vessel who is not a crewmember, relative to the expected risk exposure of the individual.

(f) All training required in this section must be documented in owner or managing operator's records.

Subpart F—Vessel Operational Safety

§ 140.600 Applicability.

This subpart applies to all towing vessels unless otherwise specified. Certain vessels remain subject to the navigation safety regulations in 33 CFR part 164.

§ 140.605 Vessel stability.

(a) Prior to getting underway, and at all other times necessary to ensure the safety of the vessel, the master or officer in charge of a navigational watch must determine whether the vessel complies with all stability requirements in the vessel's trim and stability book, stability letter, COI, and Load Line Certificate, as applicable.

(b) A towing vessel must be maintained and operated so the watertight integrity and stability of the vessel are not compromised.

§ 140.610 Hatches and other openings.

(a) All towing vessels must be operated in a manner that minimizes the risk of down-flooding and progressive flooding.

(b) The master must ensure that all hatches, doors, and other openings designed to be watertight or weathertight function properly.

(c) The master or officer in charge of a navigational watch must ensure all hatches and openings of the hull and deck are kept tightly closed except:

(1) When access is needed through the opening for transit;

(2) When operating on rivers with a tow, if the master determines the safety of the vessel is not compromised; or

(3) When operating on lakes, bays, and sounds, without a tow during calm weather, and only if the master determines that the safety of the vessel is not compromised.

(d) Where installed, all watertight doors in watertight bulkheads must be closed during the operation of the vessel, unless they are being used for transit between compartments; and

(e) When downstreaming, all exterior openings at the main deck level must be closed.

(f) Decks and bulkheads designed to be watertight or weathertight must be maintained in that condition.

§ 140.615 Examinations and tests.

(a) This section applies to a towing vessel not subject to 33 CFR 164.80.

(b) Prior to getting underway, the master or officer in charge of a navigational watch of the vessel must examine and test the steering gear, signaling whistle, propulsion control, towing gear, navigation lights, navigation equipment, and communication systems of the vessel. This examination and testing does not need to be conducted more than once in any 24-hour period.

(c) The results of the examination and testing must be recorded in the TVR, official logbook, or in accordance with the TSMS applicable to the vessel.

§ 140.620 Navigational safety equipment.

(a) This section applies to a towing vessel not subject to the requirements of 33 CFR 164.82.

(b) The owner, managing operator, or master of each towing vessel must maintain the required navigational-safety equipment in a fully-functioning, operational condition.

(c) Navigational safety equipment such as radar, gyrocompass, echo depth-sounding or other sounding device, automatic dependent surveillance equipment, or navigational lighting that fails during a voyage must be repaired at the earliest practicable time. The owner, managing operator, or master must consider the state of the equipment (along with such factors as weather, visibility, traffic, and the dictates of good seamanship) when deciding whether it is safe for the vessel to proceed.

(d) The failure and subsequent repair or replacement of navigational safety equipment must be recorded. The record must be made in the TVR, official logbook, or in accordance with the TSMS applicable to the vessel.

§ 140.625 Navigation underway.

(a) At all times, the movement of a towing vessel and its tow must be under the direction and control of a master or mate (pilot) properly licensed under subchapter B of this chapter.

(b) The master or officer in charge of a navigational watch must operate the vessel in accordance with the conditions and restrictions stated on the COI and the TSMS applicable to the vessel.

Note to § 140.625. Certain towing vessels subject to § 140.625 are also subject to the requirements of 33 CFR 164.78.

§ 140.630 Lookout.

(a) Throughout the trip or voyage the master and officer in charge of the navigational watch must assess the requirement for a lookout, consistent with 33 CFR 83.05. A lookout in addition to the master or mate (pilot) should be added when necessary to:

(1) Maintain a state of vigilance with regard to any significant change in the operational environment;

(2) Assess the situation and the risk of collision/allision;

(3) Anticipate stranding and other dangers to navigation; and

(4) Detect any other potential hazards to safe navigation.

(b) In determining the requirement for a lookout, the officer in charge of the navigational watch must take full account of relevant factors including, but not limited to: state of weather, visibility, traffic density, proximity of dangers to navigation, and the attention necessary when navigating in areas of increased vessel traffic.

§ 140.635 Navigation assessment.

(a) The officer in charge of a navigational watch must conduct a navigation assessment for the intended route and operations prior to getting underway. The navigation assessment must incorporate the requirements of pilothouse resource management of § 140.640, assess operational risks, and anticipate and manage workload demands. At a minimum, this assessment must consider:

(1) The velocity and direction of currents in the area being transited;

(2) Water depth, river stage, and tidal state along the route and at mooring location;

(3) Prevailing visibility and weather conditions and changes anticipated along the intended route;

(4) Density (actual and anticipated) of marine traffic;

(5) The operational status of pilothouse instrumentation and controls, to include alarms, communication systems, variation and deviation errors of the compass, and any known nonconformities or deficiencies;

(6) Air draft relative to bridges and overhead obstructions taking tide and river stage into consideration;

(7) Horizontal clearance, to include bridge transits;

(8) Lock transits;

(9) Navigation hazards such as logs, wrecks or other obstructions in the water;

(10) Any broadcast notice to mariners, safety or security zones or special navigation areas;

(11) Configuration of the vessel and tow, including handling characteristics, field of vision from the pilothouse, and activities taking place onboard;

(12) The knowledge, qualifications, and limitations of crewmembers who are assigned as members on watch and the experience and familiarity of crewmembers with the towing vessels particulars and equipment; and

(13) Any special conditions not covered above that impact the safety of navigation.

(b) The officer in charge of a navigational watch must keep the navigation assessment up-to-date to reflect changes in conditions and circumstances. This includes updates during the voyage or trip as necessary. At each change of the navigational watch, the oncoming officer in charge of the navigational watch must review the current navigation assessment for necessary changes.

(c) The officer in charge of a navigational watch must ensure that the navigation assessment and any updates are communicated to other members of the navigational watch.

(d) A navigation assessment entry must be recorded in the TVR, official log, or in accordance with the TSMS applicable to the vessel. The entry must include the date and time of the assessment, the name of the individual making the assessment, and the starting and ending points of the voyage or trip that the assessment covers.

Note to § 140.635. Certain towing vessels subject to § 140.635 are also subject to the voyage planning requirements of 33 CFR 164.80.

§ 140.640 Pilothouse resource management.

(a) The officer in charge of a navigational watch must:

(1) Ensure that other members of the navigational watch have a working knowledge of the navigation assessment required by § 140.635, and understand the chain of command, the decision-making process, and the fact that information sharing is critical to the safety of the vessel.

(2) Ensure that the navigation assessment required by § 140.635 is complete, updated, communicated and available throughout the trip.

(3) Ensure that watch change procedures incorporate all items listed in paragraph (a)(1) of this section.

(4) Take actions (to include delaying watch change or pausing the voyage) if

there is reasonable cause to believe that an oncoming watchstander is not immediately capable of carrying out his or her duties effectively.

(5) Maintain situational awareness and minimize distractions.

(b) Prior to assuming duties as officer in charge of a navigational watch, a person must:

(1) Complete the navigation assessment required by § 140.635;

(2) Verify the operational condition of the towing vessel; and

(3) Verify that there are adequate personnel available to assume the watch.

(c) If at any time the officer in charge of a navigational watch is to be relieved when a maneuver or other action to avoid any hazard is taking place, the relief of that officer in charge of a navigational watch must be deferred until such action has been completed.

§ 140.645 Navigation safety training.

(a) Prior to assuming duties related to the safe operation of a towing vessel, each crewmember must receive training to ensure that they are familiar with:

(1) Watchstanding terms and definitions;

(2) Duties of a lookout;

(3) Communication with other watchstanders;

(4) Change of watch procedures;

(5) Procedures for reporting other vessels or objects; and

(6) Watchstanding safety.

(b) Crewmember training must be recorded in the TVR, official logbook, or in accordance with the TSMS applicable to the vessel.

(c) Credentialed mariners holding Able Seaman or officer endorsements will be deemed to have met the training requirements in this section.

§ 140.650 Operational readiness of lifesaving and fire suppression and detection equipment.

The owner, managing operator, or master of a towing vessel must ensure that the vessel's lifesaving and fire suppression and detection equipment complies with the applicable requirements of parts 141 and 142 of this subchapter and is in good working order.

§ 140.655 Prevention of oil and garbage pollution.

(a) Each towing vessel must be operated in compliance with:

(1) Applicable sections of the Federal Water Pollution Control Act, including section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321);

(2) Applicable sections of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 *et seq.*); and

(3) Parts 151, 155, and 156, of 33 CFR, as applicable.

(b) Each towing vessel must be capable of preventing all oil spills from reaching the water during transfers by:

(1) Pre-closing the scuppers/freeing ports, if the towing vessel is so equipped;

(2) Using fixed or portable containment of sufficient capacity to contain the most likely spill, if 33 CFR 155.320 does not apply; or

(3) Pre-deploying sorbent material on the deck around vents and fills.

(c) No person may intentionally drain oil or hazardous material into the bilge of a towing vessel from any source. For purposes of this section, "oil" has the same meaning as "oil" defined in 33 U.S.C. 1321.

§ 140.660 Vessel security.

Each towing vessel must be operated in compliance with:

(a) The Maritime Transportation Security Act of 2002 (46 U.S.C. Chapter 701); and

(b) 33 CFR parts 101 and 104, as applicable.

§ 140.665 Inspection and testing required when making alterations, repairs, or other such operations involving riveting, welding, burning, or like fire-producing actions.

(a) The inspections and issuance of certificates required by this section must be conducted in accordance with the provisions of NFPA 306 (incorporated by reference, see § 136.112 of this subchapter) before alterations, repairs, or other operations involving riveting, welding, burning, or other fire producing actions may be made aboard a vessel.

(b) Until an inspection has been made to determine that such operation can be undertaken with safety, no alterations, repairs, or other such operations involving riveting, welding, burning, or like fire-producing actions must be made:

(1) Within or on the boundaries of cargo tanks which have been used to carry combustible liquid or chemicals in bulk;

(2) Within or on the boundaries of fuel tanks; or,

(3) To pipe lines, heating coils, pumps, fittings, or other appurtenances connected to such cargo or fuel tanks.

(c) Such inspections must be made and evidenced as follows:

(1) In ports or places in the United States or its territories and possessions the inspection must be made by a marine chemist certificated by the National Fire Protection Association. However, if the services of such certified marine chemist are not reasonably available, the Officer in Charge, Marine Inspection (OCMI), upon the recommendation of the vessel owner and his or her contractor or their representative, must select a person who, in the case of an individual vessel, must be authorized to make such inspection. If the inspection indicated that such operations can be undertaken with safety, a certificate setting forth the fact in writing and qualified as may be required, must be issued by the certified marine chemist or the authorized person before the work is started. Such qualifications must include any requirements as may be deemed necessary to maintain the safe conditions in the spaces certified throughout the operation and must include such additional tests and certifications as considered required. Such qualifications and requirements must include precautions necessary to eliminate or minimize hazards that may be present from protective coatings or residues from cargoes.

(2) When not in such a port or place, and a marine chemist or such person authorized by the OCMI, is not reasonably available, the inspection must be made by the master or person in charge and a proper entry must be made in the vessel's logbook.

(d) The master or person in charge must secure copies of certificates issued by the certified marine chemist or such person authorized by the OCMI. The master or person in charge must maintain a safe condition on the vessel by full observance of all qualifications and requirements listed by the marine chemist or person authorized by the OCMI in the certificate.

§ 140.670 Use of auto pilot.

Except for towing vessels in compliance with requirements in 33 CFR 164.13(d), when an automatic pilot is used in areas of high traffic density, conditions of restricted visibility, or any other hazardous navigational situations, the master must ensure that:

(a) It is possible to immediately establish manual control of the ship's steering;

(b) A competent person is ready at all times to take over steering control; and

(c) The changeover from automatic to manual steering and vice versa is made by, or under, the supervision of the officer in charge of the navigational watch.

Subpart G—Navigation and Communication Equipment

§ 140.700 Applicability.

This subpart applies to all towing vessels unless otherwise specified.

Certain towing vessels are also subject to the navigation safety regulations in 33 CFR part 164.

§ 140.705 Charts and nautical publications.

(a) This section applies to a towing vessel not subject to the requirements of 33 CFR 164.72.

(b) A towing vessel must carry adequate and up-to-date charts, maps, and nautical publications for the intended voyage, including:

(1) Charts, including electronic charts acceptable to the Coast Guard, of appropriate scale to make safe navigation possible. Towing vessels operating on the Western Rivers must have maps of appropriate scale issued by the Army Corps of Engineers or a river authority;

(2) "U.S. Coast Pilot" or similar publication;

(3) Coast Guard light list; and

(4) Towing vessels that operate the Western Rivers must have river stage(s) or Water Surface Elevations as appropriate to the trip or route, as published by the U.S. Army Corps of Engineers or a river authority, must be available to the person in charge of the navigation watch.

(c) Extracts or copies from the publications listed in paragraph (b) of this section may be carried, so long as they are applicable to the route.

§ 140.710 Marine radar.

Requirements for marine radar are set forth in 33 CFR 164.72.

§ 140.715 Communications equipment.

(a) Towing vessels must meet the communications requirements of 33 CFR part 26 and 33 CFR 164.72, as applicable.

(b) Towing vessels not subject to the provisions of 33 CFR part 26 or 33 CFR 164.72 must have a Very High Frequency-Frequency Modulated (VHF–FM) radio installed and capable of monitoring VHF–FM Channels 13 and 16, except when transmitting or receiving traffic on other VHF–FM channels, when participating in a Vessel Traffic Service (VTS), or when monitoring a channel of a VTS. The VHF–FM radio must be installed at each operating station and connected to a functioning battery backup.

(c) All towing vessels must have at least one properly operating handheld VHF–FM radio in addition to the radios otherwise required.

§ 140.720 Navigation lights, shapes, and sound signals.

Each towing vessel must be equipped with navigation lights, shapes, and sound signals in accordance with the International Regulations for Prevention of Collisions at Sea (COLREGS) or 33 CFR part 84 as appropriate to its area of operation.

§ 140.725 Additional navigation equipment.

Towing vessels must be equipped with the following equipment, as applicable to the area of operation:

(a) Fathometer (except Western Rivers).

(b) Search light, controllable from the vessel's operating station and capable of illuminating objects at a distance of at least two times the length of the tow.

(c) Electronic position-fixing device, satisfactory for the area in which the vessel operates, if the towing vessel engages in towing seaward of the navigable waters of the U.S. or more than 3 nautical miles from shore on the Great Lakes.

(d) Illuminated magnetic compass or an illuminated swing-meter (Western Rivers vessels only). The compass or swing-meter must be readable from each operating station.

Note to § 140.725. Certain towing vessels subject to § 140.725 are also subject to the requirements of 33 CFR 164.72 and Automatic Identification System requirements of 33 CFR 164.46.

Subpart H—Towing Safety

§ 140.800 Applicability.

This subpart applies to all towing vessels unless otherwise specified. Certain vessels are also subject to the navigation safety regulations in 33 CFR parts 163 and 164.

§ 140.801 Towing gear.

The owner, managing operator, master or officer in charge of a navigational watch of a towing vessel must ensure the following:

(a) The strength of each component used for securing the towing vessel to the tow and for making up the tow is adequate for its intended service.

(b) The size, material, and condition of towlines, lines, wires, push gear, cables, and other rigging used for making up a tow or securing the towing vessel to a tow must be appropriate for:

(1) The horsepower or bollard pull of the vessel;

(2) The static loads and dynamic loads expected during the intended service;

(3) The environmental conditions expected during the intended service; and

(4) The likelihood of mechanical damage.

(c) Emergency procedures related to the tow have been developed and appropriate training provided to the crew for carrying out their emergency duties.

§ 140.805 Towing safety.

Prior to getting underway, and giving due consideration to the prevailing and expected conditions of the trip or voyage, the officer in charge of the navigational watch for a towing vessel must ensure that:

(a) The barges, vessels, or objects making up the tow are properly configured and secured;

(b) Equipment, cargo, and industrial components on board the tow are properly secured and made ready for transit;

(c) The towing vessel is safely and securely made up to the tow; and

(d) The towing vessel has appropriate horsepower or bollard pull and is capable of safely maneuvering the tow.

§ 140.820 Recordkeeping for towing gear.

(a) The results of the inspections required by 33 CFR 164.76 must be documented in the TVR, official logbook, or in accordance with the TSMS applicable to the vessel.

(b) A record of the type, size, and service of each towline, face wire, and spring line, used to make the towing vessel fast to her tow, must be available to the Coast Guard or third-party auditor for review. The following minimum information is required in the record: The dates when examinations were performed, the identification of each item of towing gear examined, and the name(s) of the person(s) conducting the examinations.

Subpart I—Vessel Records

§ 140.900 Marine casualty reporting.

Each towing vessel must comply with the requirements of part 4 of this chapter for reporting marine casualties and retaining voyage records.

§ 140.905 Official logbooks.

(a) A towing vessel of the United States, except one on a voyage from a port in the United States to a port in Canada, is required by 46 U.S.C. 11301 to have an official logbook if the vessel is:

(1) On a voyage from a port in the United States to a foreign port; or

(2) Of at least 100 gross tons and on a voyage between a port in the United States on the Atlantic Ocean and one on the Pacific Ocean.

(b) The Coast Guard furnishes, without fee, to masters of vessels of the United States, the official logbook as Form CG–706B or CG–706C, depending on the number of persons employed as crew. The first several pages of this logbook list various acts of Congress governing logbooks and the entries required in them.

(c) When a voyage is completed, or after a specified time has elapsed, the master must file the official logbook containing required entries with the cognizant OCMI at or nearest the port where the vessel may be.

§ 140.910 Towing vessel record or record specified by TSMS.

(a) This section applies to a towing vessel other than a vessel operating only in a limited geographic area or a vessel required by § 140.905 to maintain an official logbook.

(b) A towing vessel subject to this section must maintain a TVR or in accordance with the TSMS applicable to the towing vessel.

(c) The TVR must include a chronological record of events as required by this subchapter. The TVR may be electronic or paper.

(d) Except as required by §§ 140.900 and 140.905, records do not need to be filed with the Coast Guard, but must be kept available for review by the Coast Guard upon request. Records, unless required to be maintained for a longer period by statute or other federal regulation, must be retained for at least 1 year after the date of the latest entry.

§ 140.915 Items to be recorded.

(a) The following list of items must be recorded in the TVR, official logbook, or in accordance with the TSMS applicable to the vessel:

(1) Personnel records, in accordance with § 140.400;

(2) Safety orientation, in accordance with § 140.410;

(3) Record of drills and instruction, in accordance with § 140.420;

(4) Examinations and tests, in accordance with § 140.615;

(5) Operative navigational safety equipment, in accordance with § 140.620;

(6) Navigation assessment, in accordance with § 140.635;

(7) Navigation safety training, in accordance with § 140.645;

(8) Oil residue discharges and disposals, in accordance with § 140.655;

(9) Record of inspection of towing gear, in accordance with § 140.820; and

(10) Fire-detection and fixed fire-extinguishing, in accordance with § 142.240.

(b) For the purposes of this subchapter, if items are recorded electronically in a TVR or other record as specified by the TSMS applicable to the towing vessel, these electronic entries must include the date and time of entry and name of the person making the entry. If after an entry has been made, someone responsible for entries determines there is an error in an entry, any entries to correct the error must include the date and time of entry and name of the person making the correction and must preserve a record of the original entry being corrected.

Note to § 140.915. For towing vessels subject to 46 U.S.C. 11301, there are statutory requirements in that U.S. Code section for additional items that must be entered in the official logbook. Regarding requirements outside this subchapter, such as requirements in 33 CFR 151.25 to make entries in an oil record book, § 140.915 does not change those requirements.

Subpart J—Penalties

§ 140.1000 Statutory penalties.

Violations of the provisions of this subchapter will subject the violator to the applicable penalty provisions of Subtitle II of Title 46, and Title 18, United States Code.

§ 140.1005 Suspension and revocation.

An individual is subject to proceedings under the provisions of 46 U.S.C. 7703 and 7704, and part 5 of this chapter with respect to suspension or revocation of a license, certificate, document, or credential if the individual holds a license, certificate of registry, merchant mariner document, or merchant mariner credential and:

(a) Commits an act of misconduct, negligence or incompetence;

(b) Uses or is addicted to a dangerous drug; or

(c) Violates or fails to comply with this subchapter or any other law or regulation intended to promote marine safety; or

(d) Becomes a security risk, as described in 46 U.S.C. 7703.

PART 141—LIFESAVING

Sec.

Subpart A—General

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Authority: 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; DHS Delegation 0170.1.

Subpart A—General

§ 141.100 Purpose.

This part contains requirements for lifesaving equipment, arrangements, systems, and procedures on towing vessels.

§ 141.105 Applicability and delayed implementation for existing vessels.

(a) This part applies to all towing vessels subject to this subchapter.

(1) An existing towing vessel must comply with the requirements in this part no later than either July 20, 2018 or the date the vessel obtains a Certificate of Inspection (COI), whichever date is earlier.

(2) The delayed implementation provisions in paragraph (a)(1) of this section do not apply to a new towing vessel.

(b) A towing vessel on an international voyage, subject to SOLAS (incorporated by reference, see § 136.112 of this subchapter), must meet the applicable requirements in subchapter W of this chapter.

(c) Towing vessels in compliance with SOLAS Chapter III will be deemed in compliance with this part.

Subpart B—General Requirements for Towing Vessels

§ 141.200 General provisions.

(a) Unless otherwise specified, all lifesaving equipment must be approved by the Commandant under the approval series specified in each section. Lifesaving equipment for personal use which is not required by this part need not be approved by the Commandant.

(b) A listing of approved equipment and materials may be found at *https://cgmix.uscg.mil/equipment*. Each cognizant Officer in Charge, Marine Inspection (OCMI) may be contacted for information concerning approved equipment and materials.

(c) Equipment requirements are based on the area in which a towing vessel is operating, not the route for which it is certificated. However, the towing vessel must be equipped per the requirements of its certificated route at the time of certification.

§ 141.225 Alternate arrangements or equipment.

(a) Alternate arrangements or equipment to comply with this part may be approved in accordance with § 136.115 of this subchapter.

(b) If a Towing Safety Management System (TSMS) is applicable to the towing vessel, alternative means for complying with §§ 141.340, 141.350, and 141.360 may be approved by a third-party organization (TPO) and documented in the TSMS applicable to the vessel.

(c) The Coast Guard may approve a novel lifesaving appliance or arrangement as an equivalent if it has performance characteristics at least equivalent to the appliance or arrangement required under this subchapter, and if it has been evaluated and tested under IMO Resolution A.520(13) (incorporated by reference, see § 136.112 of this subchapter). Requests for evaluation of novel lifesaving appliances must be sent to the Commandant (CG–ENG).

(d) The cognizant OCMI may require a towing vessel to carry specialized or additional lifesaving equipment if:

(1) He or she determines that the conditions of the voyage render the requirements of this part inadequate; or

(2) The towing vessel is operated in globally remote areas or severe environments not covered under this part. Such areas may include, but are not limited to, polar regions, remote islands, areas of extreme weather, and other remote areas where timely emergency assistance cannot be anticipated.

§ 141.230 Readiness.

The master must ensure that all lifesaving equipment is properly maintained and ready for use at all times.

§ 141.235 Inspection, testing, and maintenance.

(a) All lifesaving equipment must be tested and maintained in accordance with the minimum requirements of § 199.190 of this chapter, as applicable, and the vessel's TSMS, if the vessel has a TSMS.

(b) Inspections and tests of lifesaving equipment must be recorded in the TVR, official logbook, or in accordance with any TSMS applicable to the vessel. The following minimum information is required:

(1) The dates when inspections and tests were performed, the number or other identification of each unit inspected and tested, the results of the inspections and tests, and the name of the crewmember, surveyor or auditor and any others conducting the inspections and tests; and

(2) Receipts and other records documenting these inspections and tests must be retained for at least 1 year after the expiration of the COI and made available upon request.

§ 141.240 Requirements for training crews.

Training requirements are contained in part 140 of this subchapter.

Subpart C—Lifesaving Requirements for Towing Vessels

§ 141.305 Survival craft requirements for towing vessels.

(a) *General purpose.* Survival craft provide a means for survival when evacuation from the towing vessel is necessary. The craft and related equipment should be selected so as to provide for the basic needs of the crew, such as shelter from life threatening elements, until rescue resources are expected to arrive, taking into account the scope and nature of the towing vessel's operations.

(b) *Functional requirements.* A towing vessel's survival craft must meet the functional requirements of paragraphs (b)(1) through (5) of this section. Functional requirements describe the objectives of the regulation. Survival craft must:

(1) Be readily accessible;

(2) Have an aggregate capacity sufficient to accommodate the total number of individuals onboard, as specified in paragraph (c) of this section;

(3) Provide a means for sheltering its complement appropriate to the route;

(4) Provide minimum equipment for survival if recovery time is expected to be greater than 24 hours; and

(5) Be marked so that an individual not familiar with the operation of the specific survival craft has sufficient guidance to utilize the craft for its intended use.

(c) *Compliance options.* A towing vessel must meet the applicable functional requirements. Compliance with the functional requirements of paragraph (b) of this section may be met by one of these two options:

(1) A towing vessel that meets the prescriptive requirements of paragraph (d) of this section will have complied with the functional requirements; or

(2) If an owner or managing operator chooses to meet the functional requirement through means other than as specified in paragraph (c)(1) of this section, the means must be accepted by the cognizant OCMI or, if the vessel has a TSMS, then by a TPO and, in the latter case, documented in the TSMS applicable to the vessel. The design, testing, and examination scheme for meeting these functional requirements must be included as part of the TSMS applicable to the vessel.

(d) *Prescriptive requirements.* (1) Except as provided in paragraphs (d)(2) through (4) of this section, each towing vessel must carry the survival craft specified in Table 141.305 of this section, as appropriate for the towing vessel, in an aggregate capacity to accommodate the total number of individuals onboard.

TABLE 141.305—SURVIVAL CRAFT

Equipment (approval series)	Area of operation						
	Limited geographic area or protected waters	Rivers	Great Lakes and lakes, bays, and sounds as defined in § 136.110		Coastwise and ltd. coastwise		Oceans
			≤3 miles from shore	>3 miles from shore	≤ 3 miles from shore	> 3 miles from shore	
Cold Water Operation							
Inflatable Buoyant Apparatus (160.010).	None [1]	[2] 100%	[2] 100%	....	[2] 100%		
Inflatable Liferaft with SOLAS B Pack (160.151).	None [1]	....	....	100%	....	100%	

TABLE 141.305—SURVIVAL CRAFT—Continued

Equipment (approval series)	Area of operation						
	Limited geographic area or protected waters	Rivers	Great Lakes and lakes, bays, and sounds as defined in § 136.110		Coastwise and ltd. coastwise		Oceans
			≤3 miles from shore	>3 miles from shore	≤ 3 miles from shore	> 3 miles from shore	
Inflatable Liferaft with SOLAS A Pack (160.151).	None[1]	....	....	....	....	....	100%
Warm Water Operation							
Rigid Buoyant Apparatus (160.010).	None[1]	[2]100%	[2]100%	[2]100%	[2]100%		
Inflatable Liferaft with SOLAS B Pack (160.151).	None[1]	....	....	....	....	[3]100%	
Inflatable Liferaft with SOLAS A Pack (160.151).	None[1]	....	....	....	....	....	100%

[1] No survival craft are required unless deemed necessary by the cognizant OCMI or a TSMS applicable to the towing vessel.

[2] A skiff that meets requirements in § 141.330(a) through (f) may be substituted for all or part of required equipment.

[3] Inflatable buoyant apparatus (approval series 160.010) may be accepted or substituted if the vessel carries a 406 MHz Cat 1 emergency position indicating radio beacon (EPIRB) meeting 47 CFR part 80.

(2) The following approved survival craft may be substituted for survival craft required by Table 141.305 of this section:

(i) A lifeboat approved under approval series 160.135 may be substituted for any survival craft required by this section, provided it is arranged and equipped in accordance with part 199 of this chapter.

(ii) An inflatable liferaft approved under approval series 160.051 or 160.151, may be substituted for an inflatable buoyant apparatus or rigid buoyant apparatus.

(iii) An inflatable buoyant apparatus approved under approval series 160.010 may be substituted for a rigid buoyant apparatus.

(iv) A life float approved under approval series 160.027 may be substituted for a rigid buoyant apparatus.

(3) Unless it is determined to be necessary by the cognizant OCMI under § 141.225, or a TSMS applicable to the towing vessel, each towing vessel that operates solely on rivers need not carry survival craft if:

(i) It carries a 406 MHz Cat 1 EPIRB meeting 47 CFR part 80;

(ii) It is designed for pushing ahead and has a TSMS that contains procedures for evacuating crewmembers onto the tow or other safe location; or

(iii) It operates within 1 mile of shore.

(4) A towing vessel which is not required by this part to carry survival craft may carry a non-approved survival craft as excess equipment, provided that it is maintained in good working condition and maintained according to the manufacturer's instructions.

§ 141.310 Stowage of survival craft.

Survival craft must be stowed in accordance with the requirements of § 199.130 of this chapter, as far as is practicable on existing towing vessels.

§ 141.315 Marking of survival craft and stowage locations.

Survival craft and stowage locations must be marked in accordance with the requirements of §§ 199.176 and 199.178 of this chapter.

§ 141.320 Inflatable survival craft placards.

Every towing vessel equipped with an inflatable survival craft must have, in conspicuous places near each inflatable survival craft, approved placards or other posted instructions for launching and inflating inflatable survival craft.

§ 141.325 Survival craft equipment.

(a) Each item of survival craft equipment must be of good quality, effective for the purpose it is intended to serve, and secured to the craft.

(b) Each towing vessel carrying a lifeboat must carry equipment in accordance with § 199.175 of this chapter.

(c) Each life float and rigid buoyant apparatus must be fitted with a lifeline, pendants, a painter, and floating electric water light approved under approval series 161.010.

§ 141.330 Skiffs as survival craft.

A skiff may be substituted for all or part of the approved survival craft for towing vessels that do not operate more than 3 miles from shore. A skiff used as a survival craft does not require Coast Guard approval but must:

(a) Be capable of being launched within 5 minutes under all circumstances;

(b) Be of suitable size for all persons on board the towing vessel;

(c) Not exceed the loading specified on the capacity plate required by 33 CFR 183.23;

(d) Not contain modifications affecting the buoyancy or structure of the skiff;

(e) Be of suitable design for the vessel's intended service; and

(f) Be marked in accordance with §§ 199.176 and 199.178 of this chapter.

§ 141.340 Lifejackets.

(a) Each towing vessel must carry at least one appropriately-sized lifejacket, approved under approval series 160.002, 160.005, 160.055, 160.155, or 160.176, for each person on board.

(b) For towing vessels with berthing aboard, a sufficient number of additional lifejackets must be carried so that a lifejacket is immediately available for persons at each normally manned watch station.

(c) Where alternative means are used to meet the requirements of this section, as permitted by § 141.225, there must be at least one lifejacket for each person onboard. Any TSMS applicable to the towing vessel must specify the number and location of lifejackets in such a manner as to facilitate immediate accessibility at normally occupied spaces including, but not limited to, accommodation spaces and watch stations.

(d) Lifejackets must be readily accessible.

(e) If the towing vessel carries inflatable lifejackets they must be of similar design to each other and have the same mode of operation.

(f) Each lifejacket must be marked:

(1) In block capital letters with the name of the vessel; and

(2) With Type I retro-reflective material approved under approval series 164.018. The arrangement of the retro-reflective material must meet IMO Resolution A.658(16) (incorporated by reference, see § 136.112 of this subchapter).

(g) Lifejackets must have the following attachments and fittings:

(1) Each lifejacket must have a lifejacket light approved under approval series 161.012 or 161.112 securely attached to the front shoulder area of the lifejacket.

(2) Each lifejacket must have a whistle firmly secured by a cord to the lifejacket.

(h) Stowage positions for lifejackets stowed in a berthing space or stateroom and all lifejacket containers must be marked in block capital letters and numbers with the minimum quantity, identity, and, if sizes other than adult or universal sizes are used on the vessel, the size of the lifejackets stowed inside the container. The equipment may be identified in words or with the appropriate symbol from IMO Resolution A.760(18) (incorporated by reference, see § 136.112 of this subchapter).

§ 141.350 Immersion suits.

(a) Except as provided in paragraph (a)(4) of this section, each towing vessel operating north of lat. 32° N. or south of lat. 32° S. must carry the number of immersion suits as prescribed in this paragraph (a):

(1) Each towing vessel operating in those regions must carry at least one appropriate-size immersion suit, approved under approval series 160.171, for each person onboard.

(2) In addition to the immersion suits required under paragraph (a)(1) of this section, each watch station, work station, and industrial work site must have enough immersion suits to equal the number of persons normally on watch in, or assigned to, the station or site at one time. However, an immersion suit is not required at a station or site for a person whose cabin or berthing area (and the immersion suits stowed in that location) is readily accessible to the station or site.

(3) Where alternative means are used to meet the requirements of this section, as permitted by § 141.225, there must be at least one immersion suit of the appropriate size for each person onboard. Any TSMS applicable to the towing vessel must specify the number and location of immersion suits in such a manner as to facilitate immediate accessibility at normally occupied spaces including, but not limited to, accommodation spaces and watch stations.

(4) A towing vessel operating on rivers or in a limited geographic area is not required to carry immersion suits.

(b) Immersion suits carried on towing vessels must meet the requirements of § 199.70(c) and (d) of this chapter.

§ 141.360 Lifebuoys.

(a) A towing vessel must carry lifebuoys as follows:

(1) A towing vessel less than 26 feet length must carry a minimum of one lifebuoy of not less than 510 millimeters (20 inches) in diameter.

(2) A towing vessel of at least 26 feet, but less than 79 feet, in length must carry a minimum of two lifebuoys located on opposite sides of the vessel where personnel are normally present. Lifebuoys must be at least 610 millimeters (24 inches) in diameter.

(3) A towing vessel 79 feet or more in length must carry four lifebuoys, with one lifebuoy located on each side of the operating station. Lifebuoys must be at least 610 millimeters (24 inches) in diameter.

(4) Where alternative means are used to meet the requirements of this section, as permitted by § 141.225, any TSMS applicable to the towing vessel must specify the number and location of lifebuoys in such a manner as to facilitate rapid deployment of lifebuoys from exposed decks, including the pilot house.

(b) Each lifebuoy on a towing vessel must:

(1) Be approved under approval series 160.050 or 160.150;

(2) Be capable of being rapidly cast loose;

(3) Not be permanently secured to the vessel in any way;

(4) Be marked in block capital letters with the name of the vessel; and

(5) Be orange in color, if on a vessel on an oceans or coastwise route.

(c) Lifebuoys must have the following attachments and fittings:

(1) At least one lifebuoy must have a lifeline, secured around the body of the lifebuoy. If more than one lifebuoy is carried, at least one must not have a lifeline attached. Each lifeline on a lifebuoy must:

(i) Be buoyant;

(ii) Be of at least 18.3 meters (60 feet) in length;

(iii) Be non-kinking;

(iv) Have a diameter of at least 7.9 millimeters ($^5/_{16}$ inch);

(v) Have a breaking strength of at least 5 kilonewtons (1,124 pounds); and

(vi) Be of a dark color if synthetic, or of a type certified to be resistant to deterioration from ultraviolet light.

(2) At least two lifebuoys on a towing vessel greater than 26 feet must be fitted with a floating electric water light approved under approval series 161.010 or 161.110, unless the towing vessel is limited to daytime operation, in which case no floating electric water light is required.

(3) If a towing vessel carries only one lifebuoy, the lifebuoy must be fitted with a floating electric water light approved under approval series 161.010 or 160.110, unless the towing vessel is limited to daytime operation, in which case no floating electric water light is required. The water light must be attached by the lanyard with a corrosion-resistant clip to allow the water light to be quickly disconnected from the lifebuoy. The clip must have a strength of at least 22.7 kilograms (50 pounds).

(4) Each lifebuoy with a floating electric water light must have a lanyard of at least 910 millimeters (3 feet) in length, but not more than 1,830 millimeters (6 feet), securing the water light around the body of the lifebuoy.

§ 141.370 Miscellaneous life saving requirements for towing vessels.

Miscellaneous lifesaving requirements are summarized in Table 141.370 of this section. Equipment requirements are based on the area in which a towing vessel is operating, not the route for which it is certificated.

TABLE 141.370—MISCELLANEOUS LIFESAVING EQUIPMENT

Equipment (46 CFR section)	Area of operation					
	Limited geographic area	Rivers	Great Lakes and lakes, bays, and sounds as defined in § 136.110		Coastwise and ltd. coastwise		Oceans
			≤ 3 miles from shore	≤ 3 miles from shore	≤ 3 miles from shore	> 3 miles from shore	
Visual Distress Signals (§ 141.375).	3 day and 3 night.	3 day and 3 night.	3 day and 3 night.	6 day and 6 night.	3 day and 3 night.	6 day and 6 night.	6 day and 6 night.
EPIRBs (§ 141.380)				1[1]	1 –	1	1
Line Throwing Appliances (§ 141.385).						1 –	1

[1] Great Lakes service only.

§ 141.375 Visual distress signals.

(a) *Carriage requirement.* A towing vessel must carry a combination of day and night visual distress signals indicated in Table 141.370 of § 141.370 for specified areas where the vessel operates.

(b) *Day and night visual distress signals.* Hand-held red flare distress signals, approved under approval series 160.021 or 160.121, and hand-held rocket-propelled parachute red flares, approved under approval series 160.036 or 160.136, are acceptable as both day and night signals.

(c) *Signals for day visual distress only.* Floating orange smoke signals, approved under approval series 160.022, 160.122, or 160.157, and hand-held orange smoke distress signals, approved under approval series 160.037, are only acceptable as day signals.

(d) *Limited geographic area.* A vessel operating in a limited geographic area on a short run limited to approximately 30 minutes away from the dock is not required to carry visual distress signals under this section.

(e) *Stowage.* Each pyrotechnic distress signal carried to meet this section must be stowed in either:

(1) A portable watertight container carried at the operating station. Portable watertight containers for pyrotechnic distress signals must be of a bright color and must be clearly marked in legible contrasting letters at least 12.7 millimeters (0.5 inches) high with "DISTRESS SIGNALS"; or

(2) A pyrotechnic locker secured above the freeboard deck, away from heat, in the vicinity of the operating station.

§ 141.380 Emergency position indicating radio beacon (EPIRB).

(a) Each towing vessel operating on oceans, coastwise, limited coastwise, or beyond 3 nautical miles from shore upon the Great Lakes must carry a Category 1, 406 MHz satellite Emergency Position Indicating Radio Beacon (EPIRB) that meets the requirements of 47 CFR part 80.

(b) When the towing vessel is underway, the EPIRB must be stowed in its float-free bracket with the controls set for automatic activation and be mounted in a manner so that it will float free if the towing vessel sinks.

(c) The name of the towing vessel must be marked or painted in clearly legible letters on each EPIRB, except on an EPIRB in an inflatable liferaft.

(d) The owner or managing operator must maintain valid proof of registration.

Note to paragraph (d). Registration information can be found at *www.beaconregistration.noaa.gov/.*

§ 141.385 Line throwing appliance.

Each towing vessel operating in oceans and coastwise service must have a line throwing appliance approved under approval series 160.040.

(a) *Stowage.* The line throwing appliance and its equipment must be readily accessible for use.

(b) *Additional equipment.* The line throwing appliance must have:

(1) The equipment on the list provided by the manufacturer with the approved appliance; and

(2) An auxiliary line that:

(i) Is at least 450 meters (1,500 feet) long;

(ii) Has a breaking strength of at least 40 kilonewtons (9,000 pounds-force); and

(iii) Is, if synthetic, of a dark color or certified by the manufacturer to be resistant to deterioration from ultraviolet light.

PART 142—FIRE PROTECTION

Sec.

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Authority: 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; DHS Delegation 0170.1.

Subpart A—General

§ 142.100 Purpose.

This part contains requirements for fire suppression and detection equipment and arrangements on towing vessels.

§ 142.105 Applicability and delayed implementation for existing vessels.

This part applies to all towing vessels subject to this subchapter.

(a) An existing towing vessel must comply with the requirements in this part no later than either July 20, 2018 or the date the vessel obtains a Certificate of Inspection (COI), whichever date is earlier.

(b) The delayed implementation provisions in paragraph (a) of this section do not apply to a new towing vessel.

Subpart B—General Requirements for Towing Vessels

§ 142.205 Alternate standards.

(a) Towing vessels in compliance with Chapter II–2 of SOLAS (incorporated by reference, see § 136.112 of this subchapter) will be deemed to be in compliance with this part.

(b) Towing vessels that comply with other alternate standards, deemed by the Commandant to provide an equivalent level of safety and performance, will be in compliance with this part.

§ 142.210 Alternate arrangements or equipment.

(a) Alternate arrangements or equipment to comply with this part may be approved in accordance with § 136.115 of this subchapter.

(b) All owners or operators of towing vessels with a Towing Safety Management System (TSMS) may comply with the requirements of subpart B of this part by outfitting their vessels with appropriate alternate arrangements or equipment so long as these variations provide an equivalent level of safety and performance and are properly documented in the TSMS.

(c) The cognizant Officer in Charge, Marine Inspection (OCMI) may require a towing vessel to carry specialized or additional fire protection, suppression, or detection equipment if:

(1) He or she determines that the conditions of the voyage render the requirements of this part inadequate; or

(2) The towing vessel is operated in globally remote areas or severe environments not covered under this part. These areas may include, but are not limited to, polar regions, remote islands, areas of extreme weather, and other remote areas where timely emergency assistance cannot be anticipated.

§ 142.215 Approved equipment.

(a) All hand-portable fire extinguishers, semi-portable fire-extinguishing systems, and fixed fire-extinguishing systems required by this part must be approved by the Commandant (CG–ENG). Where other equipment in this part is required to be approved, such equipment requires the specific approval of the Commandant.

(b) A listing of approved equipment and materials may be found online at *https://cgmix.uscg.mil/equipment*. Each cognizant OCMI may be contacted for information concerning approved equipment and materials.

(c) New installations of fire-extinguishing and fire-detection equipment of a type not required, or in excess of that required by this part, may be permitted if Coast Guard approved, or if accepted by the local OCMI, a TPO, or a Nationally Recognized Testing Laboratory (NRTL). Existing equipment and installations not meeting the applicable requirements of this part may be continued in service so long as they are in good condition and accepted by the local OCMI or TPO.

§ 142.220 Fire hazards to be minimized.

Each towing vessel must be maintained and operated so as to minimize fire hazards and to ensure the following:

(a) All bilges and void spaces are kept free from accumulation of combustible and flammable materials and liquids insofar as practicable.

(b) Storage areas are kept free from accumulation of combustible and flammable materials insofar as practicable.

§ 142.225 Storage of flammable or combustible products.

(a) Paints, coatings, or other flammable or combustible products onboard a towing vessel must be stored in a designated storage room or cabinet when not in use.

(b) If a storage room is provided, it may be any room or compartment that is free of ignition sources.

(c) If a dedicated storage cabinet is provided it must be secured to the vessel so that it does not move and must be either:

(1) A flammable liquid storage cabinet that satisfies UL 1275 (incorporated by reference, see § 136.112 of this subchapter); or

(2) A flammable liquid storage cabinet that satisfies FM Approvals Standard 6050 (incorporated by reference, see § 136.112 of this subchapter); or

(3) Another suitable steel container that provides an equivalent level of protection.

(d) A B–II portable fire extinguisher must be located near the storage room or cabinet. This is in addition to the portable fire extinguishers required by Tables 142.230(d)(1) and 142.230(d)(2) of § 142.230.

§ 142.226 Firefighter's outfit.

Each towing vessel 79 feet or more in length operating on oceans and coastwise routes that does not have an installed fixed fire-extinguishing system must have the following:

(a) At least two firefighter's outfits that meet NFPA 1971 (incorporated by reference, see § 136.112 of this subchapter); and

(b) Two self-contained breathing apparatus of the pressure demand, open circuit type, approved by the National Institute for Occupational Safety and Health (NIOSH), under 42 CFR part 84. The breathing apparatus must have a minimum 30-minute air supply and full facepiece.

§ 142.227 Fire axe.

Each towing vessel must be equipped with at least one fire axe that is readily accessible for use from the exterior of the vessel.

§ 142.230 Hand-portable fire extinguishers and semi-portable fire-extinguishing systems.

(a) Hand-portable fire extinguishers and semi-portable fire-extinguishing systems are classified by a combination letter and Roman numeral. The letter indicates the type of fire which the unit could be expected to extinguish, and the Roman numeral indicates the relative size of the unit.

(b) For the purpose of this subchapter, all required hand-portable fire extinguishers and semi-portable fire-extinguishing systems must include Type B classification, suitable for extinguishing fires involving flammable liquids, grease, etc.

(c) The number designations for size run from "I" for the smallest to "V" for the largest. Sizes I and II are hand-portable fire extinguishers; sizes III, IV, and V are semi-portable fire-extinguishing systems, which must be fitted with hose and nozzle or other practical means to cover all portions of the space involved. Examples of the sizes for some of the typical hand-portable fire extinguishers and semi-portable fire-extinguishing systems appear in Table 142.230(c) of this section.

TABLE 142.230(c)—PORTABLE AND SEMI-PORTABLE EXTINGUISHERS

Classification	Foam, liters (gallons)	Carbon dioxide, kilograms (pounds)	Dry chemical, kilograms (pounds)
B–I	4.75 (1.25)	2 (4)	1 (2)

Under 26[2]	1	0
26 and over, but under 40	2	1
40 and over, but not over 65	3	2

[1] One B–II hand-portable fire extinguisher may be substituted for two B–I hand-portable fire extinguishers.

[2] *See* § 136.105 of this subchapter concerning vessels under 26 feet.

(2) Towing vessels of more than 65 feet in length must carry at least the minimum number of hand-portable fire extinguishers set forth in Table 142.230(d)(2) of this section.

TABLE 142.230(d)(2)—B–II HAND-PORTABLE FIRE EXTINGUISHERS

Gross tonnage—		Minimum number of B–II hand-portable fire extinguishers
Over	Not over	
	50	1
50	100	2
100	500	3
500	1,000	6
1,000		8

(i) In addition to the hand-portable extinguishers required by paragraph (d)(2) of this section, one Type B–II hand-portable fire extinguisher must be fitted in the engine room for each 1,000 brake horsepower of the main engines or fraction thereof. A towing vessel is not required to carry more than six additional B–II extinguishers in the engine room for this purpose, irrespective of horsepower.

(ii) [Reserved]

(e) The frame or support of any size III, IV, or V semi-portable extinguisher fitted with wheels must be welded or otherwise permanently attached to a steel bulkhead or deck to prevent it from rolling under heavy sea conditions.

§ 142.235 Vessels contracted for prior to November 19, 1952.

(a) Towing vessels contracted for construction prior to November 19, 1952, must meet the applicable provisions of this part concerning the number and general type of equipment required.

(b) Existing equipment and installations previously approved, but not meeting the applicable requirements for approval by the Commandant, may be continued in service so long as they are in good condition.

(c) All new installations and replacements must meet the requirements of this part.

§ 142.240 Inspection, testing, maintenance, and records.

(a) *Inspection and testing.* All hand-portable fire extinguishers, semi-portable fire-extinguishing systems, fire-detection systems, and fixed fire-extinguishing systems, including ventilation, machinery shutdowns, and fixed fire-extinguishing system pressure-operated dampers onboard the vessel, must be inspected or tested at least once every 12 months, as prescribed in paragraphs (a)(1) through (8) of this section, or more frequently if otherwise required by the TSMS applicable to the vessel.

(1) Portable fire extinguishers must be tested in accordance with the inspection, maintenance procedures and hydrostatic pressure tests required by Chapters 7 and 8 of NFPA 10, Portable

	oxide systems must be tested or renewed, as required by §§ 147.60 and 147.65 of this chapter.
Halon and Halocarbon	Recharge or replace if weight loss exceeds 5 percent of the weight of the charge or if cylinder has a pressure gauge, recharge cylinder if pressure loss exceeds 10 percent adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses for damage or decay. Ensure that nozzles are unobstructed. Cylinders must be tested and marked, and all flexible connections to Halon 1301 and halocarbon cylinders must be tested or renewed, as required by §§ 147.60 and 147.65 or § 147.67 of this chapter. NOTE: Halon 1301 system approvals have expired, but existing systems may be retained if they are in good and serviceable condition to the satisfaction of the Coast Guard inspector.
Dry Chemical (cartridge operated)	Inspect pressure cartridge and replace if end is punctured or if determined to have leaked or is in an unsuitable condition. Inspect hose and nozzle to see if they are clear. Insert charged cartridge. Ensure dry chemical is free flowing (not caked) and extinguisher contains full charge.
Dry chemical (stored pressure)	See that pressure gauge is within operating range. If not, or if the seal is broken, weigh or otherwise determine that extinguisher is fully charged with dry chemical. Recharge if pressure is low or dry chemical is needed.
Foam (stored pressure)	See that pressure gauge, if so equipped, is within the operating range. If not, or if the seal is broken, weigh or otherwise determine that extinguisher is fully charged with foam. Recharge if pressure is low or foam is needed. Replace premixed agent every 3 years.
Inert gas	Recharge or replace if cylinder pressure loss exceeds 5 percent, adjusted for temperature. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses and nozzles to ensure they are clear.
Water mist	Test and inspect system in accordance with the maintenance instructions in the system manufacturer's design, installation, operation, and maintenance manual.

(b) *Maintenance.* In addition to the requirements in paragraph (a) of this section, all fire-suppression and detection equipment and systems on board a towing vessel must be maintained in accordance with the attached nameplate, manufacturer's approved design manual, or as otherwise provided in any TSMS applicable to the vessel.

(c) *Records.* (1) The records of inspections and tests of fire-detection systems and fixed fire-extinguishing systems must be recorded in the TVR, official logbook, or in accordance with any TSMS applicable to the vessel. The following minimum information is required:

(i) The dates when inspections and tests were performed, the number and any other identification of each unit inspected and tested, the results of the inspections and tests, and the name of the crewmember, surveyor or auditor and any others conducting the inspections and tests, must be included.

(ii) Receipts and other records generated by these inspections and tests must be retained for at least 1 year and made available upon request.

(2) The records of inspections and tests of hand-portable fire extinguishers and semi-portable fire-extinguishing systems may be recorded in accordance with paragraph (c)(1) of this section, or on a tag attached to each unit by a qualified servicing organization.

§ 142.245 Requirements for training crews to respond to fires.

(a) *Drills and instruction.* The master of a towing vessel must ensure that each crewmember participates in fire-fighting drills and receives instruction at least once each month. The instruction may coincide with the drills, but is not required to do so. All crewmembers must be familiar with their fire-fighting duties, and, specifically how to:

(1) Fight a fire in the engine room and elsewhere onboard the towing vessel, including how to:

(i) Operate all of the fire-extinguishing equipment onboard the towing vessel;

(ii) Stop any mechanical ventilation system for the engine room and effectively seal all natural openings to the space to prevent leakage of the extinguishing agent; and

(iii) Operate the fuel shut-off(s) for the engine room.

(2) Activate the general alarm;

(3) Report inoperative alarm systems and fire-detection systems; and

(4) Don a firefighter's outfit and a self-contained breathing apparatus, if the vessel is so equipped.

(b) *Alternative form of instruction.* Video training, followed by a discussion led by someone familiar with the contingencies listed in paragraph (a) of this section, is an acceptable, alternative form of instruction. This instruction may occur either onboard or off the towing vessel.

(c) *Participation in drills.* Drills must take place onboard the towing vessel as if there were an actual emergency. They must include:

(1) Participation by all crewmembers;

(2) Breaking out and using, or simulating the use of, emergency equipment;

(3) Testing of all alarm and detection systems by operation of the test switch or by activation of one or more devices;

(4) Putting on protective clothing by at least one person, if the towing vessel is so equipped; and

(5) Functionally testing the self-priming capability of the portable fire pump, if the towing vessel is so equipped.

(d) *Safety orientation.* The master must ensure that each crewmember who has not participated in the drills required by paragraph (a) of this section and received the instruction required by that paragraph (a) receives a safety orientation within 24 hours of reporting for duty. The safety orientation must cover the particular contingencies listed in paragraph (a) of this section.

Note to § 142.245. See § 140.915 for requirements for keeping records of training.

Subpart C—Fire Extinguishing and Detection Equipment Requirements

§ 142.300 Excepted vessels.

Excepted vessels, as defined in § 136.110 of this subchapter, need not comply with the provisions of §§ 142.315 through 142.330.

§ 142.315 Additional fire-extinguishing equipment requirements.

(a) A towing vessel that is:

(1) Certificated for rivers, lakes, bays, and sounds, less than 3 nautical miles from shore on the Great Lakes; or

(2) Certificated for limited coastwise, coastwise, oceans or waters beyond 3 nautical miles from shore on the Great Lakes, whose contract for construction was executed prior to August 27, 2003; or

(3) Pushing a barge ahead or hauling a barge alongside, when the barge's coastwise, limited coastwise, or Great Lakes route is restricted, as indicated on its COI, so that the barge may operate "in fair weather only, within 12 miles of shore" or with words to that effect, must be equipped with either:

(i) An approved B–V semi-portable fire-extinguishing system to protect the engine room; or

(ii) A fixed fire-extinguishing system installed to protect the engine room.

(b) A towing vessel that is certificated for limited coastwise, coastwise, oceans, or beyond 3 nautical miles from shore on the Great Lakes whose contract for construction was executed on or after August 27, 2003, except for those specified in paragraph (a)(3) of this section, must be equipped with both:

(1) An approved B–V semi-portable fire-extinguishing system to protect the engine room; and

(2) A fixed fire-extinguishing system installed to protect the engine room.

§ 142.325 Fire pumps, fire mains, and fire hoses.

Each towing vessel must have either a self-priming, power-driven, fixed fire pump, a fire main, and hoses and nozzles in accordance with paragraphs (a) through (d) of this section; or a portable pump, and hoses and nozzles, in accordance with paragraphs (e) and (f) of this section.

(a) A fixed fire pump must be capable of:

(1) Delivering water simultaneously from the two highest hydrants, or from both branches of the fitting if the highest hydrant has a Siamese fitting, at a pitot-tube pressure of at least 344 kilopascals (kPa) (50 pounds per square inch (psi)), and a flow rate of at least 300 liters per minute (lpm) (80 gallons per minute (gpm)); and

(2) Being energized remotely from a safe place outside the engine room and at the pump.

(b) All suction valves necessary for the operation of the fire main must be kept in the open position or capable of operation from the same place where the remote fire pump control is located.

(c) The fire main must have a sufficient number of fire hydrants with attached hose to allow a stream of water to reach any part of the machinery space using a single length of fire hose.

(d) The hose must be a lined commercial fire hose 15 meters (50 feet) in length, at least 40 millimeters (1.5 inches) in diameter, and fitted with a nozzle made of corrosion-resistant material capable of providing a solid stream and a spray pattern.

(e) The portable fire pump must be self-priming and power-driven, with:

(1) A minimum capacity of at least 300 LPM (80 gpm) at a discharge gauge pressure of not less than 414 kPa (60 psi), measured at the pump discharge;

(2) A sufficient amount of lined commercial fire hose 15 meters (50 feet) in length, at least 40 mm (1.5 inches) in diameter and immediately available to attach to it so that a stream of water will reach any part of the vessel; and

(3) A nozzle made of corrosion-resistant material capable of providing a solid stream and a spray pattern.

(f) The pump must be stowed with its hose and nozzle outside of the machinery space.

§ 142.330 Fire-detection system requirements.

(a) *Fire-detection systems.* Except as provided in paragraph (a)(8) of this section, each towing vessel must have a fire-detection system installed to detect engine room fires. The owner or managing operator must ensure the following:

(1) Each detector, control panel, remote indicator panel, and fire alarm are approved by the Commandant under approval series 161.002 or listed by a NRTL as set forth in 29 CFR 1910.7;

(2) The system is installed, tested, and maintained in accordance with the manufacturer's design manual;

(3) The system is arranged and installed so a fire in the engine room automatically sets off alarms on a fire detection control panel at the operating station. On vessels with more than one operating station, only one of them must be outfitted with a fire detection control panel. Any other operating station must be outfitted with either a fire detection control panel or a remote indicator panel;

(4) The control panel includes:

(i) A power available light;

(ii) An audible to notify crew of a fire;

(iii) Visual alarm alarms to identify the zone or zones of origin of the fire;

(iv) A means to silence the audible alarm while maintaining indication by the visual alarms;

(v) A circuit-fault detector test-switch, or internal supervision of circuit integrity; and

(vi) Labels for all switches and indicator lights, identifying their functions.

(5) The system draws power from two sources. Switchover from the primary source to the secondary source may be either manual or automatic;

(6) The system serves no other purpose, unless it is an engine room monitoring system complying with paragraph (a)(8) of this section; and

(7) The design of the system and its installation on the towing vessel is certified and inspected by a registered professional engineer with experience in fire-detection system design, by a technician with qualifications as a National Institute for Certification in Engineering Technologies (NICET) level IV fire alarm engineering technician, or by an authorized classification society with equivalent experience, to comply with paragraphs (a)(1) through (6) of this section.

(8) A towing vessel whose construction was contracted for prior to January 18, 2000, may use an existing engine room monitoring system (with fire-detection capability) instead of a fire-detection system, if the monitoring system is operable and complies with paragraphs (a)(2) through (7) of this section, and uses detectors listed by an NRTL.

(b) *Smoke detection in berthing spaces.* Each towing vessel must be equipped with a means to detect smoke in the berthing spaces and lounges that alerts individuals in those spaces. This may be accomplished by an installed detection system, or by using individual battery-operated detectors meeting UL 217 (incorporated by reference, see § 136.112 of this subchapter). Detection systems or individual detectors must be kept operational at all times when the crew is onboard the towing vessel.

(c) *Heat-detection system in galley.* Each new towing vessel equipped with a galley must have a heat-detection system with one or more restorable heat-sensing detectors to detect fires in the galley. The system must be arranged to sound an audible alarm at each operating station. This may be a separate zone in the detection system required by paragraph (a) of this section, or a separate detection system complying with paragraphs (a)(1) and (2) of this section.

PART 143—MACHINERY AND ELECTRICAL SYSTEMS AND EQUIPMENT

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Authority: 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; DHS Delegation No. 0170.1.

Subpart A—General

§ 143.100 Purpose.

This part contains requirements for the design, installation, and operation of primary and auxiliary machinery and electrical systems and equipment on towing vessels.

§ 143.105 Applicability.

This part applies to all towing vessels subject to this subchapter. The specific applicability of requirements in each subpart is set forth in that subpart.

§ 143.115 Definitions.

The definitions provided in § 136.110 of this subchapter apply to this part. In addition, the following definition applies exclusively to this part:

Independent means the equipment is arranged to perform its required function regardless of the state of operation, or failure, of other equipment.

Subpart B—Requirements for All Towing Vessels

§ 143.200 Applicability.

(a) This subpart applies to all towing vessels subject to this subchapter.

(b) Except as noted paragraph (c) of this section, which lists later implementation dates for requirements in §§ 143.450 and 143.460, an existing towing vessel must comply with the applicable requirements in this part no later than either July 20, 2018 or the date the vessel obtains a Certificate of Inspection (COI), whichever date is earlier. The delayed implementation provisions in this section do not apply to a new towing vessel.

(c) Existing vessels must meet the pilothouse alerter and towing machinery requirements of §§ 143.450 and 143.460 no later than 5 years after the issuance of the first COI for the vessel.

§ 143.205 General.

(a) Machinery and electrical systems must be designed and maintained to provide for safe operation of the towing vessel and safety of persons onboard under normal and emergency conditions.

(b) The crew of each towing vessel must demonstrate the ability to operate the primary and auxiliary machinery and electrical systems for which they are responsible, and to do so under normal and emergency conditions. This includes, but is not limited to, responses to alarms and restoration of propulsion and steering in the event of failure.

(c) Propulsion machinery, including main engines, reduction gears, shafting, bearings, and electrical equipment and systems, must:

(1) Be maintained to ensure proper operation;

(2) Be suitable for route and service; and

(3) Have suitable propulsion controls to provide the operator full control at each operating station.

(d) Repairs and minor alterations to existing towing vessels must be made in accordance with this part. New installations that are not replacements in kind must comply with the requirements of subpart C of this part, if applicable.

§ 143.210 Alternate design or operational considerations.

(a) Machinery or electrical systems of a novel design, unusual form, or special material that cannot be reviewed or approved in accordance with this part, may be approved by the Commanding Officer, Marine Safety Center. It must be shown by systematic analysis, based on engineering principles, that the machinery or electrical equipment or system provides an equivalent level of safety. The owner or managing operator must submit detailed plans, material component specifications, and design criteria, including the expected towing vessel service and operating environment, to the Marine Safety Center. Examples of novel design include use of liquefied natural gas, compressed natural gas, or propane fuel for propulsion, and hybrid, fuel cell, or battery propulsion.

(b) Alternate arrangements or equipment to comply with this part may be approved in accordance with § 136.115 of this subchapter.

§ 143.215 Existing vessels built to class.

(a) An existing towing vessel classed by a recognized classification society, as appropriate for the intended service and routes, is considered in compliance with the machinery and electrical standards of this subpart.

(b) An existing vessel built and equipped to conform to a recognized classification society's rules, appropriate for the intended service and routes, but not currently classed, may be deemed by the Officer in Charge, Marine Inspection (OCMI), or third-party organization (TPO), to be in compliance with this part, provided that the towing vessel conforms to the class rules.

(c) Existing vessels meeting either paragraph (a) or (b) of this section must also meet the requirements of §§ 143.245 and 143.450.

§ 143.220 Machinery space fire prevention.

(a) All seals and gaskets must be properly maintained to prevent leaks of flammable or combustible liquid, as those terms are defined in 46 CFR subpart 30.10, into the machinery space.

(b) Piping and machinery components that exceed 220 °C (428 °F), including fittings, flanges, valves, exhaust manifolds, and turbochargers, must be insulated. Measures must be in place to prevent flammable or combustible liquid piping leaks from coming into contact with these components.

(c) Flammable and combustible products must not be stored in machinery spaces, unless they are stored in a suitable container that meets the requirements of § 142.225 of this subchapter.

§ 143.225 Control and monitoring requirements.

(a) Each towing vessel must have a means to monitor and control the amount of thrust, rudder angle, and (if applicable) direction of thrust, at each operating station.

(b) Each towing vessel equipped with rudder(s) must have a means to monitor and control the position of the rudder(s) at each operating station.

§ 143.230 Alarms and monitoring.

(a) Each towing vessel must have a reliable means to provide notification when an emergency condition exists or an essential system develops problems that require attention. The following alarms must be provided:

(1) Main engine low lubricating oil pressure;

(2) Main engine high cooling water temperature;

(3) Auxiliary generator engine low lubricating oil pressure;

(4) Auxiliary generator engine high cooling water temperature;

(5) High bilge levels;

(6) Low hydraulic steering fluid levels, if applicable; and

(7) Low fuel level, if fitted with a day tank.

(b) Alarms must:

(1) Be visible and audible at each operating station. The alarm located at the operating station may be a summary alarm; if the alarm at the operating station is a summary alarm, the specific alarm condition must be indicated at the machinery or bilge location;

(2) Have a means to test actuation at each operating station or have a continuous self-monitoring alarm system which actuates if an alarm point fails or becomes disabled;

(3) Continue until they are acknowledged; and

(4) Not interfere with night vision at the operating station.

(c) The following systems must be equipped with gauges at the machinery location:

(1) Main engine lubricating oil pressure and main engine RPM;

(2) Main engine cooling water temperature;

(3) Auxiliary generator engine lubricating oil pressure and auxiliary generator engine RPM;

(4) Auxiliary generator engine cooling water temperature; and

(5) Hydraulic steering fluid pressure, if the vessel is equipped with hydraulic steering systems.

§ 143.235 General alarms.

(a) This section does not apply to an excepted vessel as defined in § 136.110 of this subchapter.

(b) Each towing vessel must be fitted with a general alarm that:

(1) Is activated at each operating station and can notify persons onboard in the event of an emergency;

(2) Is capable of notifying persons in any accommodation, work space, and the engine room;

(3) Has installed, in the engine room and any other area where background noise makes a general alarm hard to hear, a supplemental flashing red light that is identified with a sign that reads: "Attention General Alarm—When Alarm Sounds or Flashes Go to Your Station"; and

(4) A public-address (PA) system or other means of alerting all persons on the towing vessel may be used in lieu of the general alarm in paragraph (b) of this section if the system meets the requirements of paragrahs (b)(2) and (3) of this section.

§ 143.240 Communication requirements.

(a) This section does not apply to an excepted towing vessel as defined in § 136.110 of this subchapter.

(b) Each towing vessel must be fitted with a communication system between the pilothouse and the engine room that:

(1) Consists of either fixed or portable equipment, such as a sound-powered telephone, portable radios, or other reliable method of voice communication, with a main or reserve power supply that is independent of the towing vessel's electrical system; and

(2) Provides two-way voice communication and calling between the pilothouse and either the engine room or a location immediately adjacent to an exit from the engine room.

(c) Towing vessels with more than one propulsion unit and independent pilothouse control for all engines are not required to have internal communication systems.

(d) When the pilothouse engine controls and the access to the engine room are within 3 meters (10 feet) of each other and allow unobstructed visible contact between them, direct voice communication is acceptable instead of a communication system.

§ 143.245 Readiness and testing.

(a) Essential systems or equipment must be regularly tested and examined. Tests and examinations must verify that the system or equipment functions as designed. If a component is found unsatisfactory, it must be repaired or replaced. Test and examination procedures must be in accordance with manufacturer's instructions or the Towing Safety Management System (TSMS) applicable to the vessel, if the vessel has a TSMS.

(b) Each towing vessel must perform the applicable tests in Table 143.245(b) of this section. The tests required by this section must be recorded in accordance with part 140 of this subchapter.

TABLE 143.245(b)—REQUIRED TESTS AND FREQUENCY

Tests of:	Frequency:
Propulsion controls; ahead and astern at the operating station	Before the vessel gets underway, but no more than once in any 24 hour period.
Steering controls at the operating station	Before the vessel gets underway, but no more than once in any 24 hour period.
Pilothouse alerter system	Weekly.
All alternate steering and propulsion controls	At least once every 3 months.
Power supply for alarm actuation circuits for alarms required by § 143.230.	At least once every 3 months.
Communications required by § 143.240	Weekly.
General alarm if the vessel is so equipped	Weekly.
Emergency lighting and power if the vessel is so equipped	At least once every 3 months.
Charge of storage batteries if the vessel is so equipped, for emergency lighting and power.	At least once every 3 months.
Alarm setpoints	Twice every 5 years, with no more than 3 years elapsing since last test.
Pressure vessel relief valves	Twice every 5 years, with no more than 3 years elapsing since last test.
All other essential systems	At least once every 3 months.

§ 143.250 System isolation and markings.

Electrical equipment, piping for flammable or combustible liquid, seawater cooling, or fire-fighting systems must be provided with isolation devices and markings as follows:

(a) Electrical equipment must be provided with circuit isolation and must be marked as described in § 143.400.

(b) Electrical panels or other enclosures containing more than one source of power must be fitted with a sign warning persons of this condition and identifying where to secure all sources.

(c) Piping for flammable or combustible liquid, seawater cooling, or firefighting systems must be fitted with isolation valves that are clearly marked by labeling or color coding that enables the crew to identify its function.

(d) Any piping system that penetrates the hull below the waterline must be fitted with an accessible valve, located as close to the hull penetration as is practicable, for preventing the accidental admission of water into the vessel either through such pipes or in the event of a fracture of such pipe. The valve must be clearly marked by labeling or color coding that enables the crew to identify its function.

(e) Color coding required by this section may be met by complying with coding standards contained in the ISO 14726:2008(E) (incorporated by reference, see § 136.112 of this subchapter), or in accordance with the TSMS applicable to the vessel.

§ 143.255 Fuel system requirements.

(a) Fuel systems for towing vessel main engines and generators must have a documented maintenance plan to ensure proper operation of the system.

(b) A continuous supply of clean fuel must be provided to main propulsion engines and generators.

(c) The fuel system must include filters and/or purifiers. Where filters are used:

(1) A supply of spare fuel filters must be provided onboard; and

(2) Fuel filters must be replaced in accordance with manufacturer's requirements or the vessel's TSMS, if applicable.

(d) Except as otherwise permitted under § 143.210 or § 143.520, no fuel other than diesel fuel may be used.

§ 143.260 Fuel shutoff requirements.

(a) This section does not apply to an excepted towing vessel as defined in § 136.110 of this subchapter.

(b) To stop the flow of fuel in the event of a fire or break in the fuel line, a remote fuel shutoff valve must be fitted on any fuel line that supplies fuel directly to a propulsion engine or generator prime mover.

(c) The valve must be installed in the fuel piping directly outside of the fuel oil supply tank.

(d) The valve must be operable from a safe place outside the space where the valve is installed.

(e) Each remote valve control must be marked in clearly legible letters, at least 25 millimeters (1 inch) high, indicating the purpose of the valve and the way to operate it.

§ 143.265 Additional fuel system requirements for towing vessels built after January 18, 2000.

(a) *Applicability.* This section applies to towing vessels that are not excepted vessels, as defined in § 136.110 of this subchapter, and that were built after January 18, 2000. Except for outboard engines or portable bilge or fire pumps, each fuel system must comply with this section.

(b) *Portable fuel systems.* The vessel must not incorporate or carry portable fuel systems, including portable tanks and related fuel lines and accessories, except when used for outboard engines or portable bilge or fire pumps. The design, construction, and stowage of portable tanks and related fuel lines and accessories must comply with the ABYC H–25 (incorporated by reference, see § 136.112 of this subchapter).

(c) *Vent pipes for integral fuel tanks.* Each integral fuel tank must have a vent that connects to the highest point of the tank, discharges on a weather deck through a bend of 180 degrees, and is fitted with a 30-by-30-mesh corrosion-resistant flame screen. Vents from two or more fuel tanks may combine in a system that discharges on a weather deck. The net cross-sectional area of the vent pipe for the tank must be not less than 312.3 square millimeters (0.484 square inches), for any tank filled by gravity. The cross-sectional area of the vent pipe, or the sum of the vent areas when multiple vents are used, must not be less than that of the fill pipe cross-sectional area for any tank filled by pump pressure.

(d) *Fuel piping.* Except as permitted in paragraphs (d)(1) through (3) of this section, each fuel line must be seamless and made of steel, annealed copper, nickel-copper, or copper-nickel. Each fuel line must have a wall thickness no less than 0.9 millimeters (0.035 inches) except for the following:

(1) Aluminum piping is acceptable on an aluminum-hull towing vessel if it is at least Schedule 80 in thickness.

(2) Nonmetallic flexible hose is acceptable if it:

(i) Is used in lengths of not more than 0.76 meters (30 inches);

(ii) Is visible and easily accessible;

(iii) Does not penetrate a watertight bulkhead;

(iv) Is fabricated with an inner tube and a cover of synthetic rubber or other suitable material reinforced with wire braid; and

(v) Either:

(A) If designed for use with compression fittings, is fitted with suitable, corrosion-resistant, compression fittings, or fittings compliant with the SAE J1475 Revised JUN96 (incorporated by reference, see § 136.112 of this subchapter); or

(B) If designed for use with clamps, is installed with two clamps at each end of the hose. Clamps must not rely on spring tension and must be installed beyond the bead or flare or over the serrations of the mating spud, pipe, or hose fitting.

(3) Nonmetallic flexible hose complying with SAE J1942 Revised APR2007 (incorporated by reference, see § 136.112 of this subchapter), is also acceptable.

(e) *Alternative standards.* A towing vessel of less than 79 feet in length may comply with any of the following standards for fuel systems instead of those of paragraph (d) in this section:

(1) ABYC H–33 (incorporated by reference, see § 136.112 of this subchapter);

(2) Chapter 5 of NFPA 302 (incorporated by reference, see § 136.112 of this subchapter); or

(3) 33 CFR chapter I, subchapter S (Boating Safety).

§ 143.270 Piping systems and tanks.

Piping and tanks exposed to the outside of the hull must be made of metal and maintained in a leak free condition.

§ 143.275 Bilge pumps or other dewatering capability.

There must be an installed or portable bilge pump for emergency dewatering. Any portable pump must have sufficient hose length and pumping capability. All installed bilge piping must have a check/foot valve in each bilge suction that prevents unintended backflooding through bilge piping.

§ 143.300 Pressure vessels.

(a) Pressure vessels over 5 cubic feet in volume and over 15 pounds per square inch maximum allowable working pressure (MAWP) must be equipped with an indicating pressure gauge (in a readily visible location) and with one or more spring-loaded relief valves. The total relieving capacity of such relief valves must prevent pressure from exceeding the MAWP, as established by the manufacturer, by more than 10 percent.

(b) Pressure vessels must be externally examined annually. Relief valves must be tested in accordance with § 143.245.

(c) All pressure vessels must have the MAWP indicated by a stamp, nameplate, or other means visible to the crew.

(d) Pressure vessels installed after July 20, 2016 must meet the requirements of § 143.545.

§ 143.400 Electrical systems, general.

(a) Electrical systems and equipment must function properly and minimize system failures and fire and shock hazards.

(b) Installed electrical power source(s) must be capable of carrying the electrical load of the towing vessel under normal operating conditions.

(c) Electrical equipment must be marked with its respective current and voltage ratings.

(d) Individual circuit breakers on switchboards and distribution panels must be labeled with a description of the loads they serve.

(e) Electrical connections must be suitably installed to prevent them from coming loose through vibration or accidental contact.

(f) Electrical equipment and electrical cables must be suitably protected from wet and corrosive environments.

(g) Electrical components that pose an electrical hazard must be in an enclosure.

(h) Electrical conductors passing though watertight bulkheads must be installed so that the bulkhead remains watertight.

(i) The connections of flexible cable plugs and socket outlets must be designed to prevent unintended separation.

§ 143.410 Shipboard lighting.

(a) Sufficient lighting suitable for the marine environment must be provided within crew working and living areas.

(b) Emergency lighting must be provided for all internal crew working and living areas. Emergency lighting sources must provide for sufficient illumination under emergency conditions to facilitate egress from each space and must be either:

(1) Automatic, battery-operated with a duration of no less than 2 hours; or

(2) Non-electric, phosphorescent adhesive lighting strips that are installed along escape routes and sufficiently visible to enable egress with no power.

(c) Each towing vessel must be equipped with at least two portable, battery-powered lights. One must be located in the pilothouse and the other at the access to the engine room.

§ 143.415 Navigation lights.

(a) Towing vessels more than 65 feet in length must use navigation lights that meet UL 1104 (incorporated by reference, see § 136.112 of this subchapter) or other standards accepted by the Coast Guard.

(b) Towing vessels 65 feet or less in length may meet the requirements listed in 33 CFR 183.810 or paragraph (a) of this section.

§ 143.450 Pilothouse alerter system.

(a) Except as provided in paragraph (d) or (e) of this section, a towing vessel with overnight accommodations and alternating watches (shift work), when pulling, pushing or hauling alongside one or more barges, must have a system to detect when its master or mate (pilot) becomes incapacitated. The system must:

(1) Have an alarm in the pilothouse distinct from any other alarm;

(2) Require action from the master or officer in charge of a navigational watch, during an interval not to exceed 10 minutes, in order to reset the alarm timer; and

(3) Immediately (within 30 seconds) notify another crewmember if the pilothouse alarm is not acknowledged.

(b) The time interval for the system alarm must be adjustable. The time may be adjusted by the owner or managing operator but must not be in excess of 10 minutes. This time interval, and information on alerter operation, must be provided on board and specified in the vessel's TSMS if applicable.

(c) The system alarm may be reset physically (*e.g.* a push button), or the reset may be accomplished by a link to other pilothouse action such as rudder or throttle control movement, or motion detection of personnel.

(d) A towing vessel need not comply with this section if a second person is provided in the pilothouse.

(e) Towing vessels 65 feet or less in length are not required to have a pilothouse alerter system.

§ 143.460 Towing machinery.

(a) Towing machinery such as capstans, winches, and other mechanical devices used to connect the towing vessel to the tow must be designed and installed to maximize control of the tow.

(b) Towing machinery for towing astern must have sufficient safeguards, *e.g.*, towing bitt with crossbar, to prevent the machinery from becoming disabled in the event the tow becomes out of line.

(c) Towing machinery used to connect the towing vessel to the tow must be suitable for its intended service. It must be capable of withstanding exposure to the marine environment, likely mechanical damage, static and dynamic loads expected during intended service, the towing vessel's horsepower, and arrangement of the tow.

(d) When a winch that has the potential for uncontrolled release under tension is used, a warning must be in place at the winch controls that indicates this. When safeguards designed to prevent uncontrolled release are utilized, they must not be disabled.

(e) Each owner or managing operator must develop procedures to routinely examine, maintain, and replace capstans, winches, and other machinery used to connect the towing vessel to the tow.

Subpart C—Requirements for New Towing Vessels

§ 143.500 Applicability.

(a) This subpart applies to a new towing vessel, as defined in § 136.110 of this subchapter, unless it is an excepted vessel.

(b) Machinery or electrical systems of a novel design, unusual form, or special material must meet section § 143.210.

(c) Unless otherwise noted in §§ 143.515 and 143.520, new towing vessels must also meet the requirements of subpart B of this part.

§ 143.510 Verification of compliance with design standards.

Verification of compliance with the machinery and electrical design standards in this subpart is obtained by following the provisions in §§ 144.135 through 144.145 of this subchapter.

§ 143.515 Towing vessels built to recognized classification society rules.

(a) Except as noted in paragraph (c) of this section, a towing vessel classed by the American Bureau of Shipping (ABS), in accordance with the ABS Rules for Building and Classing Steel Vessels Under 90 Meters (295 Feet) in Length, or the ABS Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways (incorporated by reference, see § 136.112 of this subchapter), as appropriate for the intended service and routes, complies with this subpart.

(b) Except as noted in paragraph (c) of this section, a towing vessel built and equipped to conform to the ABS rules specified in paragraph (a) of this section and appropriate for the intended service and routes, but not currently classed, may be deemed by the OCMI or a TPO to be in compliance with this subpart if it can be shown that the vessel continues to conform to the ABS rules.

(c) A vessel that complies with this subpart as described in paragraph (a) or (b) must also meet the requirements described in §§ 143.585 through 143.595 or the requirements of § 143.600 if it moves tank barges carrying oil or hazardous material in bulk.

(d) Vessels meeting either paragraph (a) or (b) of this section are considered as being in compliance with subpart B of this part except for the readiness and testing requirements of § 143.245, and pilothouse alerter requirements of § 143.450.

(e) Towing vessels built to other recognized classification society rules, appropriate for the intended route and service, may be considered compliant with provisions in this subpart upon approval by the Coast Guard.

§ 143.520 Towing vessels built to American Boat and Yacht Council standards.

(a) Except as noted in paragraphs (b) and (c) of this section, a new towing vessel 65 feet (19.8 meters) or less in length built to conform with the American Boat and Yacht Council (ABYC) standards listed in this paragraph (a) (incorporated by reference, see § 136.112 of this subchapter), complies with this subpart:

(1) E–11 (2003)—AC & DC Electrical Systems on Boats;

(2) H–2 (2002)—Ventilation of Boats Using Gasoline;

(2) H–22 (2005)—Electric Bilge Pump Systems;

(3) H–24 (2007)—Gasoline Fuel Systems;

(4) H–25 (2003)—Portable Gasoline Fuel Systems;

(5) H–32 (2004)—Ventilation of Boats Using Diesel Fuel;

(6) H–33 (2005)—Diesel Fuel Systems;

(7) P–1 (2002)—Installation of Exhaust Systems for Propulsion and Auxiliary Engines; and

(8) P–4 (2004)—Marine Inboard Engines and Transmissions.

(b) New towing vessels, 65 feet or less in length, built to the ABYC standards specified in this section are considered compliant with subpart B of this part except for the readiness and testing requirements of § 143.245.

(c) If the vessel moves tank barges carrying oil or hazardous material in bulk, it must meet either the requirements described in §§ 143.585 through 143.595 or the requirements described in § 143.600.

§ 143.540 Pumps, pipes, valves, and fittings for essential systems.

(a) Pumps, pipes, valves, and fittings in essential systems on vessels must meet ABS Rules for Building and Classing Steel Vessels Under 90 Meters (295 Feet) in Length (incorporated by reference, see § 136.112 of this subchapter), Part 4, Chapter 4.

(b) Pumps, pipes, valves, and fittings in essential systems on towing vessels operating exclusively on rivers or intracoastal waterways may meet ABS Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways (incorporated by reference, see § 136.112 of this subchapter), Part 4, Chapter 3.

§ 143.545 Pressure vessels.

(a) In lieu of meeting the requirements of § 143.300, pressure vessels installed on new towing vessels must meet the requirements of this section.

(b) Pressure vessels over 5 cubic feet in volume and more than 15 psi maximum allowable working pressure must meet ABS Rules for Building and Classing Steel Vessels under 90 Meters (295 Feet) in Length (incorporated by reference, see § 136.112 of this subchapter), Part 4, Chapter 1, Section 1.

§ 143.550 Steering systems.

(a) Steering systems must meet ABS Rules for Building and Classing Steel Vessels under 90 Meters (295 Feet) in Length (incorporated by reference, see § 136.112 of this subchapter), Part 4, Chapter 3, Section 3.

(b) Steering systems on new towing vessels operating exclusively on rivers or intracoastal waterways may meet ABS Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways (incorporated by reference, see § 136.112 of this subchapter), Part 4, Chapter 2, Section 3.

§ 143.555 Electrical power sources, generators, and motors.

(a) *General requirements.* (1) There must be a source of electrical power sufficient for:

(i) All essential systems as defined by § 136.110 of this subchapter;

(ii) Minimum conditions of habitability; and

(iii) Other installed or portable systems and equipment.

(2) Generators and motors must be suitably rated for the environment where they operate, marked with their respective ratings, and suitably protected against overcurrent.

(3) A towing vessel, other than an excepted vessel, must have a backup or a second power source that has adequate capacity to supply power to essential alarms, lighting, radios, navigation equipment, and any other essential system identified by the cognizant OCMI or a TPO.

(b) *Specific requirements.* (1) The owner or managing operator must complete a load analysis that shows that the electrical power source is sufficient to power the sum of connected loads described in paragraph (a)(1) of this section utilizing an appropriate load factor for each load. A record of the analysis must be retained by the owner or managing operator.

(2) Installed generators and motors must have a data plate listing rated kilowatts and power factor (or current), voltage, and rated ambient temperature.

(3) Generators must be provided with overcurrent protection no greater than 115 percent of their rated current and utilize a switchboard or distribution panel.

(4) Motors must be provided with overcurrent protection that meets Parts I through VII, Article 430 of NFPA's National Electrical Code (NEC) (incorporated by reference, see § 136.112 of this subchapter). Steering motor circuits must be protected as per Part 4 Chapter 6 Section 2, Regulation 11 (except 11.7) ofABS Rules for Building and Classing Steel Vessels Under 90 Meters (295 feet) in Length (incorporated by reference, see § 136.112 of this subchapter).

(5) Generators and motors installed in machinery spaces must be certified to operate in an ambient temperature of 50 °C or be derated, or it can be shown that 40 °C ambient temperature will not be exceeded in these spaces.

(6) Each generator and motor, except a submersible-pump motor, must be in an accessible space which is adequately ventilated and as dry as practicable, and must be mounted above the bilges.

(7) A generator driven by a main propulsion unit (such as a shaft generator) may be considered one of the power sources required by paragraph (a) of this section.

(8) Other than excepted vessels, each towing vessel must be arranged so that the following essential loads can be energized from two independent sources of electricity:

(i) High bilge level alarm required by § 143.230;

(ii) Emergency egress lighting, unless the requirements of § 143.410(b)(1) or (2) are met;

(iii) Navigation lights;

(iv) Pilothouse lighting;

(v) Engine room lighting;

(vi) Any installed radios and navigation equipment as required by §§ 140.715 and 140.725;

(vii) All distress alerting communications equipment listed in §§ 140.715 and 140.725;

(viii) Any installed fire detection system; and

(ix) Any essential system identified by the cognizant OCMI or TPO, if applicable.

(9) If a battery is used as the second source of electricity required by paragraph (b)(8) of this section, it must be capable of supplying the loads for at least three hours. There must be a means to monitor the condition of the battery backup power source.

§ 143.560 Electrical distribution panels and switchboards.

(a) Each distribution panel or switchboard on a towing vessel must be:

(1) In a location that is accessible, as dry as practicable, adequately ventilated, and protected from falling debris and dripping or splashing water; and

(2) Totally enclosed and of the dead-front type.

(b) Each switchboard accessible from the rear must be constructed to prevent a person's accidental contact with energized parts.

(c) Nonconductive mats or grating must be provided on the deck in front of each switchboard and, if it is accessible from the rear, on the deck behind the switchboard.

(d) Each un-insulated current-carrying part must be mounted on noncombustible, nonabsorbent, and high-dielectric insulating material.

(e) Equipment mounted on a door of an enclosure must be constructed or shielded so that a person will not come into accidental contact with energized parts.

§ 143.565 Electrical overcurrent protection other than generators and motors.

(a) *General requirement.* Power and lighting circuits on towing vessels must be protected by suitable overcurrent protection.

(b) *Specific requirements.* (1) Cable and wiring used in power and lighting circuits must have overcurrent protection that opens the circuit at the standard setting closest to 80 percent of the manufacturer's listed ampacity. Overcurrent protection setting exceptions allowed by NFPA's National Electrical Code (NEC), Article 240 (incorporated by reference, see § 136.112 of this subchapter) may be employed.

(2) If the manufacturer's listed ampacity is not known, tables referenced in Article 310.15(B) of the NEC (incorporated by reference, see § 136.112 of this subchapter) must be used, assuming a temperature rating of 75 °C and an assumed temperature of 50 °C for machinery spaces and 40 °C for other spaces.

(3) Overcurrent protection devices must be installed in a manner that will not open the path to ground in a circuit; only ungrounded conductors must be protected. Overcurrent protection must be coordinated such that an overcurrent situation is cleared by the circuit breaker or fuse nearest to the fault.

(4) Each transformer must have protection against overcurrent that meets Article 450 of the NEC (incorporated by reference, see § 136.112 of this subchapter).

(5) On a towing vessel, other than an excepted vessel as defined in § 136.110 of this subchapter, essential systems and non-essential systems must not be on the same circuit or share the same overcurrent protective device.

§ 143.570 Electrical grounding and ground detection.

(a) An ungrounded distribution system must be provided with a ground detection system located at the main switchboard or distribution panel that provides continuous indication of circuit status to ground, with a provision to temporarily remove the indicating device from the reference ground.

(b) A dual voltage or grounded electrical distribution system must have the neutral suitably grounded. There must be only one connection to ground, regardless of the number of power sources. This connection must be at the main switchboard or distribution panel.

(c) On a metallic towing vessel, a grounded distribution system must be grounded to the hull. This grounded system must be connected to a common, non-aluminum ground plate. The ground plate must have only one connection to the main switchboard or distribution panel, and the connection must be readily accessible for examination.

(d) On a nonmetallic towing vessel, all electrical equipment must be grounded to a common ground. Multiple ground plates bonded together are acceptable.

(e) Each grounding conductor of a cable must be identified by one of the following means:

(1) Green braid or green insulation; or

(2) Stripping the insulation from the entire exposed length of the grounding conductor.

(f) A towing vessel's hull may not carry current as a conductor, except for an impressed-current cathodic-protection system or a battery system used to start an engine.

(g) Cable armor may not be used to ground electrical equipment or systems.

(h) Each receptacle outlet and attachment plug for a portable lamp, tool, or similar apparatus operating at 100 or more volts must have a grounding pole and a grounding conductor in the portable cord.

(i) In a grounded distribution system, only grounded, three-prong appliances may be used. This does not apply to double-insulated appliances or tools and appliances of 50 volts or less.

§ 143.575 Electrical conductors, connections, and equipment.

(a) Each cable and wire on a towing vessel must be installed to meet the following requirements:

(1) Each conductor must have sufficient current-carrying capacity for the circuit in which it is used.

(2) Cable hangers for overhead and vertical cable runs must be installed with metal supports and retention devices at least every 48 inches.

(3) Each wire and cable run must be installed in a manner to prevent contact with personnel, mechanical hazards, and leaking fluids. Wire and cable runs must not be installed in bilges, across a normal walking path, or less than 24 inches from the path of movable machinery (*e.g.*, cranes, elevators, forktrucks, etc., where the machinery location can change) unless adequately protected.

(4) Connections and terminations must be suitable for the installed conductors, and must retain the original electrical, mechanical, flame-retarding, and where necessary, fire-resisting properties of the conductor. If twist-on types of connectors are used, the connections must be made within an enclosure and the insulated cap of the connector must be secured to prevent loosening due to vibration. Twist-on type of connectors may not be used for making joints in cables, facilitating a conductor splice, or extending the length of a circuit.

(5) Each cable and wire must be installed so as to avoid or reduce interference with radio reception and compass indication.

(6) Each cable and wire must be protected from the weather.

(7) Each cable and wire must be supported in order to avoid chafing or other damage.

(8) Each cable and wire must be protected by metal coverings or other suitable means, if in areas subject to mechanical abuse.

(9) Each cable and wire must be suitable for low temperature and high humidity, if installed in refrigerated compartments.

(10) Each cable and wire must be located outside a tank, unless it supplies power to equipment in the tank.

(11) If wire is installed in a tank, it must have sheathing or wire insulation compatible with the fluid in a tank.

(b) Extension cords must not be used as a permanent connection to a source of electrical power.

(c) Multi-outlet adapters (power strips) may not be connected to other adapters ("daisy-chained"), or otherwise used in a manner that could overload the capacity of a receptacle.

§ 143.580 Alternative electrical installations.

In lieu of meeting the requirements of §§ 143.555 through 143.575, a vessel may meet the following:

(a) ABS Rules for Building and Classing Steel Vessels Under 90 Meters (295 Feet) in Length (incorporated by reference, see § 136.112 of this subchapter), Part 4, Chapter 6; or

(b) ABS Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways (incorporated by reference, see § 136.112 of this subchapter), Part 4, Chapter 5, if they operate exclusively on rivers or intracoastal waterways.

§ 143.585 General requirements for propulsion, steering, and related controls on vessels that move tank barges carrying oil or hazardous material in bulk.

(a) There must be an alternate means to control the propulsion and steering system which must:

(1) Be independent of the primary control required by § 143.225;

(2) Be located at or near the propulsion and steering equipment; and

(3) Be readily accessible and suitable for prolonged operation.

(b) There must be a means to communicate between each operating station and the alternate propulsion and steering controls.

(c) There must be a means to stop each propulsion engine and steering motor from each operating station.

(d) The means to monitor the amount of thrust, rudder angle, and if applicable, direction (ahead or astern) of thrust must be independent of the controls required by § 143.225.

(e) The propulsion control system required by § 143.225 must be designed so that, in the event of a single failure of any component of the system, propeller speed and direction of thrust are maintained or reduced to zero.

(f) On a towing vessel with an integrated steering and propulsion system, such as a Z-drive, the control system required by § 143.225 must be designed so that, in the event of a single failure of any component of the system, propeller speed and direction of thrust are maintained or the propeller speed is reduced to zero.

(g) An audible and visual alarm must actuate at each operating station when:

(1) The propulsion control system fails;

(2) A non-follow up steering control system fails, if installed; and

(3) The ordered rudder angle does not match the actual rudder position on a follow-up steering control system, if installed. This alarm must have an appropriate delay and error tolerance to eliminate nuisance alarms.

(h) Alarms must be separate and independent of the control system required by § 143.225.

(i) A means of communication must be provided between each operating station and any crewmember(s) required to respond to alarms.

(j) The two sources of electricity required by § 143.555(a)(3) and (b)(8) must be capable of powering electrical loads needed to maintain propulsion, steering, and related controls for not less than 3 hours.

(k) The second source of supply required by § 143.555(a)(3) must automatically start to help restore or maintain power to propulsion, steering, and related controls when the main power source fails.

(l) Propulsion, steering, or related controls that are directly reliant on stored energy, such as compressed air, battery power, or hydraulic pressure, must have two independent stored energy systems, such as compressed air cylinders, battery banks, or hydraulic cylinders, that are capable of maintaining the vessel's propulsion, steering, and related controls.

(m) After a power failure, electrical motors used to maintain propulsion and steering must automatically restart when power is restored, unless remote control starting is provided at the operating station.

§ 143.590 Propulsor redundancy on vessels that move tank barges carrying oil or hazardous material in bulk.

(a) A towing vessel must be provided with at least two independent propulsors unless the requirements of § 143.595 are met.

(b) There must be independent controls for each propulsor at each operating station.

(c) In the event of a failure of a single propulsor, the remaining propulsor(s) must have sufficient power to maneuver the vessel to a safe location.

§ 143.595 Vessels with one propulsor that move tank barges carrying oil or hazardous material in bulk.

(a) A towing vessel must have independent, duplicate vital auxiliaries. For the purpose of this section, vital auxiliaries are the equipment necessary to operate the propulsion engine, and include fuel pumps, lubricating oil pumps, and cooling water pumps. In the event of a failure or malfunction of any single vital auxiliary, the propulsion engine must continue to provide propulsion adequate to maintain control of the tow.

(b) In the event of a failure, the corresponding independent duplicate vital auxiliary, described in paragraph (a) of this section, must be fully capable of assuming the operation of the failed unit.

§ 143.600 Alternative standards for vessels that move tank barges carrying oil or hazardous material in bulk.

In lieu of meeting §§ 143.585 through 143.595, a towing vessel may comply with Sections 7–5 (class ABCU) and 3–5 (class R2) of Part 4 of the ABS Rules for Building and Classing Steel Vessels Under 90 Meters (295 Feet) in Length (incorporated by reference, see § 136.112 of this subchapter), except that a vessel that operates exclusively on rivers or intracoastal waterways does not need to comply with 4–7–4/3.9 and the automatic day tank fill pump requirement of 4–7–4/25.3.

§ 143.605 Demonstration of compliance on vessels that move tank barges carrying oil or hazardous material in bulk.

(a) The owner or managing operator of each towing vessel must devise test procedures that demonstrate compliance with the design and engineering requirements prescribed in this subpart.

(b) The tests required in paragraph (a) of this section must be satisfactorily conducted and witnessed by the cognizant OCMI or a TPO. A record of the tests must be retained by the owner or managing operator and be available upon request of the cognizant OCMI or TPO.

PART 144—CONSTRUCTION AND ARRANGEMENT

Sec.

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Authority: 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; DHS Delegation No. 0170.1.

Subpart A—General

§ 144.100 Purpose.

This part details the requirements for design, construction and arrangement, and verification of compliance with this part, including document review.

§ 144.105 Applicability and delayed implementation.

This part applies to each towing vessel subject to this subchapter. Note that §§ 144.200 and 144.300 only apply to an existing vessel and that the following sections only apply to a new vessel: §§ 144.205, 144.305, 144.310, 144.405, 144.410, 144.420, 144.425, 144.430, 144.910, and 144.920.

(a) An existing towing vessel must comply with § 144.320 starting July 20, 2016 and it must comply with the other applicable requirements in this part no later than either July 20, 2018 or the date the vessel obtains a Certificate of Inspection (COI), whichever date is earlier.

(b) The delayed implementation provisions in paragraph (a) of this section do not apply to a new towing vessel.

(c) Alterations or modifications made to the structure or arrangements of an existing vessel that are a major conversion, made on or after the July 20, 2016, must comply with the regulations applied to a new towing vessel of this part insofar as is reasonable and practicable. Repairs conducted on an existing vessel, resulting in no significant changes to the original structure or arrangement of the vessel, must comply with the standards applicable to the vessel at the time of construction or, as an alternative, with the regulations in this part.

§ 144.120 A classed vessel.

A vessel currently classed by a recognized classification society is deemed to be in compliance with the requirements of subparts B and C of this part.

§ 144.125 A vessel with a load line.

A vessel with a valid load line certificate issued in accordance with subchapter E of this chapter may be deemed in compliance with the requirements of subparts B and C of this part.

§ 144.130 A vessel built to the International Convention for the Safety of Life at Sea, 1974, as amended, requirements.

A vessel built to the International Convention for the Safety of Life at Sea, 1974, as amended, is considered to be in compliance with this part.

§ 144.135 Verification of compliance with design standards.

Verification of compliance with the construction and arrangement design standards of this part must be performed according to the following table:

TABLE 144.135—VERIFICATION OF COMPLIANCE WITH DESIGN STANDARDS

If the vessel is—	Then the applicable requirements must be met—
(a) A new vessel,	Before the COI is issued.
(b) A vessel to undergo a major conversion or alteration to the hull, machinery, or equipment that may affect the vessel's safety,	Before the major conversion or alteration is performed.
(c) A vessel on which a new installation that is not a "replacement in kind" is to be made after July 20, 2016,	Before the new installation is performed.

§ 144.140 Qualifications.

Use the following table to determine the individual or entity that may conduct a verification of compliance with design standards required by § 144.135.

TABLE 144.140

Verification of compliance with design standards may be performed by—	Provided that—
(a) A registered professional engineer (P.E.) licensed by one of the states of the United States or the District of Columbia;	The PE ensures he or she does not exceed the scope of his or her P.E. license.
(b) An authorized classification society that has been delegated the authority to issue the SOLAS Cargo Ship Safety Construction Certificate under 46 CFR 8.320;	The authorized classification society ensures that the employees that perform the verification of compliance holds proper qualifications for the type of verification performed.
(c) The Coast Guard	

§ 144.145 Procedures for verification of compliance with design standards.

(a) Verification of compliance with design standards, when required by § 144.135, must be performed by an individual or entity who meets the requirements of § 144.140.

(b) Verification of compliance with design standards must be based on objective evidence of compliance with the applicable requirements and include:

(1) A description of the vessel's intended service and route;

(2) The standards used for the vessel's design and construction;

(3) Deviations from the standards used, if any;

(4) A statement that the vessel is suitable for the intended service and route; and

(5) The identification of the individual or entity in Table 144.140 of § 144.140 who conducted the verification of compliance.

(c) Verification of compliance with design standards must include review and analyses of sufficient plans, drawings, schematics, calculations, and other documents to ensure the vessel complies with the standards used. The plans must be stamped with the seal authorized for use by the individual or entity performing the verification of compliance, or otherwise indicate that they have been reviewed and determined to meet the applicable standards by an individual or entity who meets the requirements of § 144.140.

(d) A copy of the verified plan must be provided to the cognizant Officer in Charge, Marine Inspection (OCMI) and the third-party organization (TPO) conducting the surveys, if applicable, except as provided in paragraph (e) of this section.

(e) Plans verified by an authorized classification society need only be provided to the Coast Guard upon request.

(f) If the vessel is a new vessel, a copy of the verified plan must be available at the construction site.

(g) As referred to in this section, the term plan may include, but is not limited to drawings, documents, or diagrams of the following:

(1) Outboard profile.

(2) Inboard profile.

(3) Arrangement of decks.

(4) Midship section and scantling plans.

(5) Survival craft embarkation stations.

(6) Machinery installation, including, but not limited to:

(i) Propulsion and propulsion control, including shaft details;

(ii) Steering and steering control, including rudder details;

(iii) Ventilation diagrams;

(iv) Fuel transfer and service system, including tanks;

(v) Piping systems including: bilge, ballast, hydraulic, combustible and flammable liquids, vents, and overflows; and

(vi) Hull penetrations and shell connections;

(7) Electrical installation including, but not limited to:

(i) Elementary one-line diagram of the power system;

(ii) Cable lists;

(iii) Type and size of generators and prime movers;

(iv) Type and size of generator cables, bus-tie cables, feeders, and branch circuit cables;

(v) Power and lighting panelboards with number of circuits and rating of energy consuming devices;

(vi) Capacity of storage batteries;

(vii) Rating of circuit breakers and switches, interrupting capacity of circuit breakers, and rating and setting of overcurrent devices; and

(viii) Electrical plant load analysis as required by § 143.555 of this subchapter.

(8) Lifesaving equipment locations and installation;

(9) Fire protection equipment installation including, but not limited to:

(i) Fire main system plans and calculations;

(ii) Fixed gas fire extinguishing system plans and calculations;

(iii) Fire detecting system and smoke detecting system plans;

(iv) Sprinkler system diagram and calculations; and

(v) Portable fire extinguisher types, sizes, and locations;

(10) Lines and offsets, curves of form, cross curves of stability, tank capacities including size and location on vessel, and other stability documents needed to show compliance; and

(11) Towing arrangements.

§ 144.155 Verification of compliance with design standards for a sister vessel.

(a) Verification of compliance required by § 144.135 is not required for a sister vessel, provided that:

(1) The original vessel has been verified as complying with this part;

(2) The owner authorizes the use of the plans for the original vessels for the new construction of the sister vessel;

(3) The standards used in the design and construction of the original vessel have not changed since the original verification of compliance;

(4) The sister vessel is built to the same verified plans, drawings, schematics, calculations, and other documents and equipped with machinery of the same make and model as the original vessel, and has not been subsequently modified;

(5) The sister vessel is built in the same shipyard facility as the original vessel; and

(6) For a sister vessel subject to a stability standard, that the conditions in Table 144.155 of this section are met:

TABLE 144.155

If—	Then—
(i) The delivery date of the sister vessel is not more than 2 years after a previous stability test date of either the original vessel or an earlier sister vessel,	The approved lightweight characteristics of that earlier vessel are adopted by the sister vessel;
(ii) Paragraph (a)(6)(i) of this section does not apply, and the lightweight characteristics determined from a deadweight survey of the sister vessel are shown to meet both the following criteria: (A) the lightweight displacement differs by not more than 3 percent of the earlier vessel's lightweight displacement, and (B) the longitudinal center of gravity (LCG) differs by not more than 1 percent of the length between perpendiculars (LBP) of the earlier vessel's LCG,	The vertical center of gravity (VCG) of the earlier vessel is adopted by the sister vessel and used with the lightweight displacement and LCG determined from the deadweight survey of the sister vessel;
(iii) Neither paragraph (a)(6)(i) nor (ii) of this section apply because both the criteria in paragraphs (a)(6)(ii)(A) and (B) of this section are not met and lightweight characteristics were determined from a stability test on either the original vessel or a sister vessel,	The vessel must undergo a stability test in accordance with 46 CFR part 170, subpart F;
(iv) No vessel of the class of sister vessels previously underwent a stability test,	One vessel of the class must undergo a stability test in accordance with 46 CFR part 170, subpart F, and each sister vessel to which a stability standard applies must meet either paragraph (a)(6)(ii) or (iii) of this section.

(b) A statement that verifies sister vessel status for each element of paragraph (a) of this section from an individual or entity meeting the requirements of § 144.140 must be retained and produced upon request.

§ 144.160 Marking.

(a) The hull of each documented vessel must be marked as required by part 67 of this chapter.

(b) The hull of each undocumented vessel must be marked with its name and hailing port.

(c) A vessel complying with either § 144.300(a) or § 144.305 must have draft marks that meet the requirements of § 97.40–10 of this chapter.

(d) Each vessel assigned a load line must have the load line marks and the deck line permanently scribed or embossed as required by subchapter E of this chapter.

(e) Each watertight door and watertight hatch must be marked on both sides in clearly legible letters at least 25 millimeters (1 inch) high: "WATERTIGHT DOOR—KEEP CLOSED" or "WATERTIGHT HATCH—KEEP CLOSED".

(f) Each escape hatch and emergency exit used as means of escape must be marked on both sides in clearly legible letters at least 50 millimeters (2 inches) high: "EMERGENCY EXIT, KEEP CLEAR".

Subpart B—Structure

§ 144.200 Structural standards for an existing vessel.

An existing vessel may be deemed by the OCMI, or TPO, to be in compliance with this subpart provided that either:

(a) The vessel is built, equipped, and maintained to conform to the rules of a recognized classification society appropriate for the intended service and routes, but not classed; or

(b) The vessel has been both in satisfactory service insofar as structural adequacy is concerned and does not cause the structure of the vessel to be questioned by either the OCMI, or TPO engaged to perform an audit or survey.

§ 144.205 Structural standards for a new vessel.

(a) Except as provided in paragraphs (b) and (c) of this section, a new vessels must comply with the standards established by the American Bureau of Shipping (ABS) as provided in the following table.

TABLE 144.205(a)—STRUCTURAL STANDARDS FOR A NEW VESSEL

For a new vessel to be certificated for service on—	ABS Rules for Building and Classing—
(1) Lakes, bays, and sounds, limited coastwise, coastwise, and oceans routes;	Steel Vessels Under 90 Meters (295 Feet) in Length (incorporated by reference, see § 136.112 of this subchapter) apply; or
(2) Rivers or intracoastal waterways routes	Steel Vessels for Service on Rivers and Intracoastal Waterways (incorporated by reference, see § 136.112 of this subchapter) apply.

(b) Alternate design standards to comply with this subpart may be approved in accordance with § 136.115 of this subchapter.

(c) The current standards of a recognized classification society, other than ABS, may be used provided they are accepted by the Coast Guard as providing an equivalent level of safety.

(d) The structural standard selected must be applied throughout the vessel including design, construction, installation, maintenance, alteration, and repair. Deviations are subject to approval by the Commanding Officer, Marine Safety Center.

§ 144.215 Special consideration.

The cognizant OCMI may give special consideration to the structural requirements for a vessel if that vessel is:

(a) Not greater than 65 feet in length;

(b) Operating exclusively within a limited geographic area; or

(c) Of an unusual design not contemplated by the rules of the American Bureau of Shipping or other recognized classification society.

Subpart C—Stability and Watertight Integrity

§ 144.300 Stability standards for an existing vessel.

(a) The owner or managing operator of an existing vessel operating under a stability document must be able to readily produce a copy of such document.

(b) The owner or managing operator of an existing vessel not operating under a stability document must be able to show at least one of the following:

(1) The vessel's operation or a history of satisfactory service does not cause the stability of the vessel to be questioned by either the Coast Guard or a TPO engaged to perform an audit or survey.

(2) The vessel performs successfully on operational tests to determine whether the vessel has adequate stability and handling characteristics.

(3) The vessel has a satisfactory stability assessment by means of giving due consideration to each item that impacts a vessel's stability characteristics which include, but are not limited to, the form, arrangement, construction, number of decks, route, and operating restrictions of the vessel.

§ 144.305 Stability standards for a new vessel.

Each new vessel must meet the applicable stability requirements of part 170 and, if applicable, of part 173, subpart E, of this chapter in addition to the requirements in the following table:

TABLE 144.305—STABILITY STANDARDS FOR A NEW VESSEL

Each new vessel certificated to operate on—	Must meet the requirements of—
(a) Protected waters	§ 170.173(e)(2) of this chapter.
(b) Partially protected waters	§§ 170.170 and 170.173(e)(1) of this chapter.
(c) Exposed waters or that is assigned a load line	§§ 170.170 and 174.145 of this chapter.

§ 144.310 Lifting requirements for a new vessel.

Each new vessel equipped for lifting must meet the requirements of part 173, subpart B, of this chapter.

§ 144.315 Weight and moment history requirements for a vessel with approved lightweight characteristics.

(a) A weight and moment history of changes to the vessel since approval of its lightweight characteristics (displacement, Longitudinal Center of Gravity (LCG) and Vertical Center of Gravity (VCG)) must be maintained. All weight modifications to the vessel (additions, removals, and relocations) including a calculation of the aggregate weight change (absolute total of all additions, removals, and relocations) must be recorded in the history, along with a description of the change(s), when and where accomplished, moment arms, etc. After each modification, the lightweight characteristics must be recalculated.

(b) When the aggregate weight change is more than 2 percent of the vessel's approved lightweight displacement, or the recalculated change in the vessel's lightweight LCG is more than 1 percent of the LBP, a deadweight survey must be performed to determine the vessel's current lightweight displacement and LCG. Use the following table to determine when the deadweight survey results or the vessel's aggregate weight change requires the vessel to undergo a specified stability test:

TABLE 144.315

If—	Then—
(1) The deadweight survey results are both within 1 percent of the recalculated lightweight displacement and within 1 percent LBP of the recalculated lightweight LCG,	the recalculated lightweight VCG can be accepted as accurate;
(2) The deadweight survey results do not meet the criteria of paragraph (b)(1) of this section,	the vessel must undergo a stability test in accordance with 46 CFR 170, subpart F;
(3) The aggregate weight change is more than 10 percent of the vessel's approved lightweight displacement,	the vessel must undergo a stability test in accordance with 46 CFR 170, subpart F.

§ 144.320 Watertight or weathertight integrity.

(a) Each vessel fitted with installed bulwarks around the exterior of the main deck must have sufficient freeing ports or scuppers or a combination of freeing ports and scuppers to allow water to run off the deck quickly without adversely affecting the stability of the vessel.

(b) Closure devices must be provided for deckhouse or hull penetrations, which open to the exterior of the vessel and which may allow water to enter the vessel. These devices must be suitable for the expected route.

§ 144.330 Review of a vessel's watertight and weathertight integrity.

The cognizant OCMI may require review of a vessel's watertight and weathertight integrity. This review may be performed by an individual who meets the requirements of § 144.140. The review may include an examination of a plan that shows the original placement of decks and bulkheads.

Subpart D—Fire Protection

§ 144.400 Applicability.

Except for § 144.415, which applies to each new and existing vessel, this subpart applies to each new towing vessel.

§ 144.405 Fire hazards to be minimized.

Each vessel must be designed and constructed to minimize fire hazards insofar as reasonable and practicable.

§ 144.410 Separation of machinery and fuel tank spaces from accommodation spaces.

Machinery and fuel tank spaces must be separated from accommodation spaces by bulkheads. Doors may be installed provided they are the self-closing type.

§ 144.415 Combustibles insulated from heated surfaces.

Internal combustion engine exhaust ducts, galley exhaust ducts and similar ignition sources must be insulated with noncombustible insulation if less than 450 mm (18 inches) away from combustible material. Installations in accordance with ABYC P-1 or NFPA 302 (incorporated by reference, see § 136.112 of this subchapter) will be considered as meeting the requirements of this section.

§ 144.425 Waste receptacles.

Unless other means are provided to ensure that a potential waste receptacle fire would be limited to the receptacle, waste receptacles must be constructed of noncombustible materials with no openings in the sides or bottom.

§ 144.430 Mattresses.

Each mattress must comply with either:

(a) The Consumer Product Safety Commission Standard for Mattress Flammability (FF 4–72, Amended), 16 CFR part 1632, subpart A, and not contain polyurethane foam; or

(b) IMO Resolution A.688(17) (incorporated by reference, see § 136.112 of this subchapter) in which case the mattress may contain polyurethane foam.

Subpart E—Emergency Escape

§ 144.500 Means of escape.

Where practicable and except as provided in § 144.515, each space where crew may be quartered or normally employed must have at least two means of escape. Arrangements on an existing vessel may be retained if it is impracticable or unreasonable to provide two means of escape.

§ 144.505 Location of escapes.

The two required means of escape must be widely separated and, if possible, at opposite ends or sides of the space. Means may include normal and emergency exits, passageways, stairways, ladders, deck scuttles, doors, and windows.

§ 144.510 Window as a means of escape.

On a vessel of 65 feet (19.8 meters) or less in length, a window or windshield of sufficient size and proper accessibility may be used as one of the required means of escape from an enclosed space, provided it:

(a) Does not lead directly overboard;

(b) Is suitably marked; and

(c) Has a means to open the window or break the glass.

§ 144.515 One means of escape required.

Only one means of escape is required from a space where:

(a) The space has a deck area less than 30 square meters (322 square feet);

(b) There is no stove, heater, or other source of fire in the space;

(c) The means of escape is located as far as possible from a machinery space or fuel tank; and

(d) If an accommodation space, the single means of escape does not include a deck scuttle or a ladder.

Subpart F—Ventilation

§ 144.600 Ventilation for accommodations.

Each accommodation space on a vessel must be ventilated in a manner suitable for the purpose of the space.

§ 144.605 Means to stop fans and close openings.

Means must be provided for stopping each fan in a ventilation system serving machinery spaces and for closing, in case of fire, each doorway, ventilator, and annular space around funnels and other openings into such spaces.

§ 144.610 Ventilation in a vessel more than 65 feet in length.

A vessel of more than 65 feet (19.8 meters) in length with overnight accommodations must have a mechanical ventilation system unless a natural system, such as opening windows, portholes, or doors, will provide adequate ventilation in ordinary weather.

Subpart G—Crew Spaces

§ 144.700 General requirements.

(a) A crew accommodation space and a work space must be of sufficient size, adequate construction, and with suitable equipment to provide for the safe operation of the vessel and the protection and accommodation of the crew in a manner practicable for the size, facilities, service, route, and modes of operation of the vessel.

(b) The deck above a crew accommodation space must be located above the deepest load waterline.

§ 144.710 Overnight accommodations.

Overnight accommodations must be provided for crewmembers if it is operated more than 12 hours in a 24-hour period, unless the crew is put ashore and the vessel is provided with a new crew.

§ 144.720 Crew rest consideration.

The condition of the crew accommodations must consider the importance of crew rest. Factors to consider include vibrations, ambient light, noise levels, and general comfort. Every effort must be made to ensure that quarters help provide a suitable environment for sleep and off-duty rest.

Subpart H—Rails and Guards

§ 144.800 Handrails and bulwarks.

(a) Rails or equivalent protection must be installed near the periphery of all decks accessible to crew. Equivalent protection may include lifelines, wire rope, chains, and bulwarks that provide strength and support equivalent to fixed rails.

(b) In areas where space limitations make deck rails impractical, such as at narrow catwalks in way of deckhouse sides, hand grabs may be substituted.

§ 144.810 Storm rails.

On a vessel in oceans or coastwise service, suitable storm rails or hand grabs must be installed in all passageways and at the deckhouse sides where persons onboard might have normal access.

§ 144.820 Guards in dangerous places.

An exposed hazard such as gears and rotating machinery, must be protected by a cover, guard or rail. This is not meant to restrict access to towing equipment such as winches, drums, towing gear or steering compartment equipment necessary for the operation of the vessel.

§ 144.830 Protection against hot piping.

Each exhaust pipe from an internal combustion engine which is within reach of personnel must be insulated or otherwise guarded to prevent burns. On a new vessel, each pipe that contains vapor, gas, or liquid that has a temperature exceeding 150 °F (65.5 °C) which is within reach of personnel must be insulated where necessary or otherwise guarded to prevent injury.

Subpart I—Visibility

§ 144.905 Operating station visibility.

(a) Windows and other openings at the operating station must be of sufficient size and properly located to provide a clear field of vision for safe operation in any condition.

(b) Means must be provided to ensure that windows immediately forward of the operating station in the pilothouse allow for adequate visibility to ensure safe navigation regardless of weather conditions. This may include mechanical means such as windshield wipers, defoggers, clear-view screens, or other such means, taking into consideration the intended route of the vessel.

(c) The field of vision from the operating station on a new vessel must extend over an arc from dead ahead to at least 60 degrees on either side of the vessel.

(d) If a new vessel is towing astern, the operating station must be provided with a view aft.

(e) In a new vessel, glass or other glazing material used in windows at the operating station must have a light transmission of not less than 70 percent according to Test 2 of ANSI/SAE Z 26.1–1996 (incorporated by reference, see § 136.112 of this subchapter) and must comply with Test 15 of ANSI/SAE Z 26.1–1996 for Class I Optical Deviation.

§ 144.920 Window or portlight strength in a new vessel.

(a) Each window or portlight, and its means of attachment to the hull or the deckhouse, must be capable of withstanding the maximum expected load from wind and waves, due to its location on the vessel and the vessel's authorized route.

(b) Any covering or protection placed over a window or porthole that could be used as a means of escape must be able to be readily removed or opened from within the space.

(c) Glass and other glazing materials used in windows of a new towing vessel must be materials that will not break into dangerous fragments if fractured.

PART 199—LIFESAVING SYSTEMS FOR CERTAIN INSPECTED VESSELS

■ 14. The authority citation for part 199 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; Department of Homeland Security Delegation No. 0170.1.

■ 15. In § 199.01, redesignate paragraphs (a)(3) and (4) as paragraphs (a)(4) and (5), respectively, and add new paragraph (a)(3) to read as follows:

§ 199.01 Purpose.

(a) * * *

(3) Towing vessels, which are covered by subchapter M of this chapter;

* * * * *

■ 16. Amend § 199.10 as follows:

■ a. Revise Table 199.10(a); and

■ b. In paragraph (b) after the words "small passenger vessels;" add the words "towing vessels;".

The revision reads as follows:

§ 199.10 Applicability.

(a) * * *

TABLE 199.10(a)—LIFESAVING REQUIREMENTS FOR INSPECTED VESSELS

Row	46 CFR subchapter	Vessel type	Vessel service	Subchapter W subparts applicable[1]						Other[2]
				A	B	C	D	E	F	
1	D	Tank ≥500 tons	International voyage[3].	X	X	....	X	....	....	
2	D	Tank <500 tons	International voyage[3].	X	X	....	X	X	X	
3	D	Tank	All other services	X	X	....	X	X	X	
4	H	Passenger	International voyage[3].	X	X	X	....	....	....	
5	H	Passenger	Short Inter'l voyage[3].	X	X	X	....	....	....	
6	H	Passenger	All other services	X	X	X	....	X	X	
7	I	Cargo ≥500 tons	International voyage[3].	X	X	....	X	....	....	
8	I	Cargo <500 tons	International voyage[3].	X	X	....	X	X	X	
9	I	Cargo	All other services	X	X	....	X	X	X	
10	I–A	MODU	All	....	....	....	....	....	....	46 CFR part 108.
11	K	Small Passenger	International voyage[3].	X	X	X	....	....	....	
12	K	Small Passenger	Short Inter'l voyage[3].	X	X	X	....	....	....	
13	K	Small Passenger	All other services	....	....	....	....	....	....	46 CFR part 117.
14	L	Offshore Supply	All	....	....	....	....	....	....	46 CFR part 133.
15	M	Towing Vessels	International voyage[3].	X	X	....	X	....	....	
16	M	Towing Vessels	All other	....	....	....	....	....	....	46 CFR part 141.

TABLE 199.10(a)—LIFESAVING REQUIREMENTS FOR INSPECTED VESSELS—Continued

Row	46 CFR subchapter	Vessel type	Vessel service	Subchapter W subparts applicable[1]						Other[2]
				A	B	C	D	E	F	
17	R—Part 167	Public Nautical School.	International voyage[3].	X	X	X[4]	X[5]	....	....	
18	R—Part 167	Public Nautical School.	All other services	X	X	X[4]	X[5]	X	X	
19	R—Part 168	Civilian Nautical School.	International voyage[3].	X	X	X[4]	X[5]	....	....	
20	R—Part 168	Civilian Nautical School.	All other services	X	X	X[4]	X[5]	X	X	
21	R—Part 169	Sailing School	All services	....	....	....	....	....	....	46 CFR 169.500.
22	T	Small Passenger	International voyage[3].	X	X	X	....	....	....	
23	T	Small Passenger	Short Int'l voyage[3]	X	X	X	....	....	....	
24	T	Small Passenger	All other services	....	....	....	....	....	....	46 CFR part 180.
25	U	Oceanographic Res	International voyage[3].	X	X	X[4]	X[5]	....	....	
26	U	Oceanographic Res	All other services	X	X	X[4]	X[5]	X	X	

Notes:

[1] Subchapter W of this chapter does not apply to inspected nonself-propelled vessels without accommodations or work stations on board.

[2] Indicates section where primary lifesaving system requirements are located. Other regulations may also apply.

[3] Not including vessels solely navigating the Great Lakes of North America and the Saint Lawrence River as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side Anticosti Island, the 63rd meridian.

[4] Applies to vessels carrying more than 50 special personnel, or vessels carrying not more than 50 special personnel if the vessels meet the structural fire protection requirements in subchapter H of this chapter for passenger vessels of the same size.

[5] Applies to vessels carrying not more than 50 special personnel that do not meet the structural fire protection requirements in subchapter H of this chapter for passenger vessels of the same size.

* * * * *

Dated: May 25, 2016.

Paul F. Zukunft,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 2016–12857 Filed 6–10–16; 4:15 pm]

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